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The Morality of Civil Disobedience

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The Morality of Civil Disobedience

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Abstract

In this thesis I present my theory of civil disobedience as a conscientiously motivated breaking of the law in order to correct or appropriately address a wrongdoing of the state. I argue that civil disobedience may be morally justifiable based on the relevant circumstances of the act and under the constraints on action listed. In the thesis I propose John Rawls' theory of the natural duty to support just institutions as the most satisfactory answer to the question of political obligation, and consequentially base my theory of the moral justifiability of civil disobedience upon this account. I argue that civil disobedience may be morally justifiably engaged in as a response to wrongdoings of the state of a certain level of severity, which I define as wrongdoings which undermine basic interests and prevent a good quality of life for citizens with dignity, cause unjustified suffering or death to sentient creatures, or cause harm to future generations. I argue that violence may be morally justifiably used within civil disobedience, under very tight restrictions, and contrasting to Rawls' definition of civil disobedience, I argue that my theory of civil disobedience does not require the stipulations of publicity, nonviolence and communication.

Declaration by Author

This thesis is submitted to Bond University in fulfilment of the requirements of the degree of Master's of Philosophy.

This thesis represents my own original work towards this research degree and contains no material that has previously been submitted for a degree or diploma at this University or any other institution, except where due acknowledgement is made.

Dedication

Dedicated to Mom, Dad and Liam, the best family in the world.

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Introduction

In this thesis I will be explaining and supporting a theory of civil disobedience as a conscientiously motivated breaking of the law in order to correct or appropriately address a wrongdoing of the state. I argue that civil disobedience can be morally justified under certain circumstances and within certain constraints.

In chapter one I provide my definition of civil disobedience and highlight the relevant factors within it that differentiate my definition from other accounts of civil disobedience, as well as explain the features of my definition which influence why and in what manner the act may be morally justifiably engaged in. In this chapter I outline the types of moral wrongs which, according to my theory, would warrant the use of civil disobedience. I explain that my theory of morally justified civil disobedience is contextualized within the metaethical theory of moral realism, which holds that objective moral facts exist and morally correct action is an objective matter. In chapter one I introduce the topic of civil disobedience through the evaluation of Socrates' dilemma concerning whether he ought to engage in civil disobedience in *The Crito*, as well as provide historically influential definitions of civil disobedience from John Rawls and Henry David Thoreau. I argue that they fail as effective definitions of civil disobedience.

In chapter two I outline the inseparability of the question of political obligation and the question of the morality of civil disobedience, explaining that in order to determine whether civil disobedience can be morally justifiably engaged in, one must first answer the question of political obligation. In this chapter I outline voluntarist, teleological, deontological and associative theories of political obligation, and provide arguments as to why all these theories, except for Rawls' deontological theory of the natural duty to support just institutions, fail to provide a satisfactory answer to the question of political obligation. I argue that Rawls' theory of the natural duty to support just institutions is the most satisfactory answer to the question of political obligation because it does not bind citizens irrevocably to the state but rather bases the political obligation of citizens on the morality of the state, as well as supports the natural intuitions agents experience towards support of justice promoting institutions.

In chapter three I compare my theory of civil disobedience with Rawls' theory. My theory is one of conscientiously motivated breaking of the law in order to correct or appropriately address a wrongdoing of the state. I provide arguments as to why my definition does not require the stipulations of publicity, nonviolence or communication found in Rawls' definition. The disagreement is a result of the fundamental difference in purpose driving civil disobedience in the context of these varying theories. I offer three arguments in favour of my theory over Rawls' theory: 1) the argument from misdirection, 2) the argument from scope and 3) the argument from effectiveness.

In chapter four I outline moral realism and how it provides a supporting framework for the truth claims regarding civil disobedience I argue for in my thesis. I hold that civil disobedience involves practical ethics in so far as one determines whether the state has engaged in a wrongdoing of a level of severity which warrants the use of civil disobedience and which provides the circumstances under which civil disobedience has the potential to be morally justified. Whether an act is in fact morally justified, however, is an objective matter according to the moral realist stance I adopt. Although one may never know the objective truths of morality with full certainty, agents may hold justified opinions regarding these facts and these opinions are sufficient to guide moral action. In chapter four I discuss the ethical theory of consequentialism in order to illustrate how it cannot be used to accurately judge moral action within my theory of civil disobedience. I provide three examples of theoretical objective moral facts that, if true, would warrant the use of civil disobedience. At the end of the chapter I provide a paradigmatic example of civil disobedience found in the actions of the group of activists in the film *The Cove* in order to illustrate their action is in alignment with my definition of morally justified civil disobedience.

Chapter 1

In their daily life a citizen of a just state may not often pause to reflect on the nature of their obligation to the state, and how far this obligation extends. The question of political obligation is not typically the object of focus in states that are considered, by reasonable people, to be just, but rather in times where the state is believed to have perpetrated a moral wrong. Where the status of a state's morality is dubious the question of how one's obligation of obedience to the state is derived and the nature of this obligation is addressed with the most concern. Civil disobedience focuses on a different question than that of political obligation. While the question of political obligation is whether we have an obligation to the state, or why our obligation is morally justified, the question of civil disobedience revolves around whether, through an act of civil disobedience, breaking one's obligation to the laws of the state can be morally justified. The answer to the question of civil disobedience varies depending on one's answer to the question of political obligation, and therefore one must be answered before the other. I believe the most satisfactory theory of political obligation is John Rawls' theory of the natural duty to support just institutions. In chapter two I explain why I believe this is the most convincing account of political obligation. One of my main reasons is that it encompasses an account of the natural duty people bear to those in their society, as well as draws on the correct values, namely justice, to morally justify political obligation. Based on this account of political obligation I will then defend my conclusion that, under certain circumstances, civil disobedience can be morally justified.

Civil disobedience has been defined in many ways, however one of the most widely accepted definitions was produced by John Rawls in his work *A Theory of Justice*. He stated that civil disobedience is "a public, non-violent and conscientious breach of law undertaken with the aim of bringing about a change in laws or government policies." (Rawls 1971, 320) The elements which are intrinsic to civil disobedience, according to Rawls, are that the act must be conscientious, public, non-violent, and done in an effort to change the law in question. Another aspect Rawls includes in his definition of civil disobedience is that the agent must be prepared to accept the legal consequences of their actions. Rawls believes this is an important aspect of morally justified civil disobedience because it shows support for the rule of law. The rule of law

is important in society in order to help maintain structure and peace. If citizens believed that the law had no hold over their actions, there would be no force from its rulings. It is important, therefore, that a civil disobedient (according to Rawls) makes clear that it is not the legal system in general they disagree with, but rather the specific law they are protesting. My definition is slightly different than Rawls' in so far as I believe the only necessary element to define an act of civil disobedience is that it must be a breaking of the law with the conscientious motivation of correcting or appropriately addressing a moral wrong perpetrated by the state. I will explain why I do not believe an act of civil disobedience must be public in order for it to be morally justified, as well as why it does not always have to be an attempt to change the law in question. In addition, I will explain that, under certain conditions, an act of civil disobedience involving violence can be morally justified. One of the main reasons for my deviation from Rawls' definition is my view of the underlying reason which motivates civil disobedience. While Rawls focuses on the fact that civil disobedience is morally justified if it is in an attempt to change the law in question or raise awareness of an issue, I believe that the main underlying reason one engages in morally justified civil disobedience is to correct or appropriately address a moral wrong of the state. Whether the act necessary to do this is public, in a direct attempt to change the law, or non-violent, is neither necessary nor required for it to be morally justified.

At this point I would like to specify my definitions of what correcting and appropriately addressing a wrongdoing of the state entail. I define correcting a wrongdoing of the state as correcting the harm instituted by an unjust law or policy, or changing the law or policy facilitating the harm in order to stop current harm from being exacted or to prevent future harm from occurring. Remedial responses to victims of past harms, responses that remedy ongoing harms, qualify as correction of wrongdoings under my definition. My definition, however, excludes compensating victims for past harms, as this qualifies as an attempt to make up for past injustices rather than correcting a wrongdoing. As well, exacting retribution for past harms does not qualify as correcting wrongdoings under my definition as this does not aid in facilitating the correction of wrongdoings, but rather adds to the number of wrongs.

By appropriately addressing a wrongdoing I mean that an act of civil disobedience is not required to be directed at correcting the wrongdoing itself, but rather, can be engaged in as a

response by the civil disobedient to either show condemnation or disapproval of the wrong. Although the civilly disobedient action is not required to be directed at realistically correcting the wrongdoing, it must, however, be a relevant action in regards to the wrongdoing it is a response to. An example of an action such as this could be a protest to openly show condemnation of the actions of a state or to raise awareness regarding the wrongdoing. I would like to further refine this account of addressing a wrongdoing. One may address a wrongdoing appropriately by acting as if to correct it while knowing that one's actions are unlikely to succeed. Appropriately addressing a wrongdoing, on my account, cannot simply constitute an announcement or proclamation of an agent's disapproval/condemnation of a specific wrongdoing, but rather must be engaged in for the purpose of attempting to facilitate the correction of the wrongdoing. The differentiation between an agent directly attempting to correct a wrongdoing, and an agent attempting to appropriately address a wrongdoing, is that in the latter case an agent is taking action which is unlikely to succeed because of the non-ideal circumstances of the real world. Civil disobedient agents in these circumstances realize there is very little chance of the desired change being instituted. I observe a differentiation between acts of civil disobedience which attempt to correct a wrongdoing and acts which appropriately address a wrongdoing in order to include in my definition of morally justifiable civil disobedience acts which are unlikely to succeed but are nonetheless justifiable and apt responses to wrongdoing. Such acts still qualify as acts that attempt to facilitate the correction of the wrongdoing by exposing/declaring the injustice of a wrongdoing and indicating that change is required to correct the harm done (or to prevent similar wrongdoing in the future).

Acts of civil disobedience which appropriately address wrongdoings of the state are included in the definition of civil disobedience Rawls supports in so far as they are forms of civil disobedience aimed at exposing wrongdoings and expressing condemnation of the state's actions, and as such are aimed to promote the changing/prevention of laws/policies in order to stop current harm from being exacted or to prevent future harm. My definition includes these forms of civil disobedience and defines them as acts of civil disobedience which appropriately address wrongdoings of the state. My definition of civil disobedience, however, includes a wider scope of morally justifiable action than Rawls' definition, in so far as I permit acts of civil

disobedience done in a direct attempt to correct wrongdoings of the state and which can include secretive and violent methods.

Engaging in civil disobedience involves both right and (ordinarily) wrong moral behaviour and therefore whether one judges that one ought to engage in it varies depending on the values one holds to be the most important. Civil disobedience helps remedy/appropriately address wrongdoings by the state, and this is a moral good. The cost of this moral good, however, is that it involves breaking one's obligation to the state, in addition to engaging in action which under ordinary circumstances would be immoral. I believe the fact that civil disobedience may involve certain actions which would ordinarily be immoral in order to accomplish its goal does not undermine the possibility of its moral justifiability. Morality can only very rarely be categorized through a rigid divide between "good" or "evil". In reality, morality involves a mixing of various circumstances, some of which may be good and bad, and choosing, based on one's values, the best alternative. The morality of the real world is complicated and involves circumstances that are not ideal, wherein the object of a moral decision is not a choice between good or evil but rather choosing the best option out of the ones available. In addition to the practical system of ethics I use to determine the most appropriate civilly disobedient action, I set my theory in the context of moral realism. Moral realism is a metaethical theory which holds that objective moral facts exist and hold normative power over human action. I will explain moral realism and how it supports my theory of civil disobedience in more detail in chapter four. I will defend my conclusion that civil disobedience, under certain circumstances, can be morally justified, through this practical approach to ethics and the factual basis of moral realism. By 'morally justified' I mean that one would be right to engage in the action in so far as the action aligns with the truths held in moral realism.¹ I will argue that in a world where moral good and evil exist interconnected with one another the way to determine a moral course of action is to evaluate the alternatives available and choose the action which best reflects the truths of moral realism. I argue that, in the circumstances of a state which has promulgated a moral wrong, the way to determine whether engaging in civil disobedience is morally justified is to the values promulgated by either breaking the law or abiding by it.

¹ In this thesis I will be using the term 'justified' in regards to moral justifiability, not epistemic justifiability.

1.1 Introduction to Civil Disobedience: The *Crito*

Civil disobedience is a topic that has been identified early in the history of philosophy, initially in Plato's *Crito*. This work is set while Socrates is in prison awaiting his death sentence. In Plato's preceding work, the *Apology*, Socrates was found guilty by jury of promoting false gods as well as corrupting the youth, and was sentenced to death. In the *Crito* Socrates is visited by his friend Crito in the early morning, who attempts to persuade Socrates to escape from prison. Crito implores Socrates to escape with him from prison, explaining that he could easily arrange an escape and has a wealth of resources to do so. Socrates rejects Crito's offer to escape, arguing that to escape from prison would be morally wrong because it would consist of him breaking his political obligation to the laws of the state. If Socrates were to escape from prison it would be categorized as an act of civil disobedience (according to my definition of civil disobedience) because of the fact that it would be a conscientious breaking of the law in order to correct a moral wrong perpetrated by the state. In escaping from prison Socrates would, through his actions, be displaying his belief that the state has perpetrated a moral wrong by sentencing him to death and hence reject his obligation to obey the laws of the state to pursue the action he believes is morally correct. In this section of the *Crito* Socrates imagines how a dialogue would ensue between himself and the Laws of Athens, personified in the shape of a woman, if he proposed to her the idea of his escape. The Laws present three main arguments for why it would be morally wrong for Socrates to escape from prison and break his obligation to the state, they are: 1) it would work to undermine the rule of law, 2) he has an obligation to the state based on his relationship with it, resembling that of a parent, and 3) Socrates tacitly consented to abide by the laws of the state, and accept his political obligation, when he freely chose to remain in Athens.

The first argument the Laws presents as a reason that Socrates' escape from prison would be morally wrong, is that his escape would work to undermine the rule of law. The rule of law, defined in contemporary terms, is the principle that "individuals, persons and government shall submit to, obey and be regulated by law, and not arbitrary action by an individual or a group of individuals." (Duhaime's Law Dictionary- accessed 15/02/16) The rule of law is the concept that it is just for citizens to respect and obey the legal system because it works to order society as

well keep the peace in a manner that is equal to all, and therefore it is not just for individuals to decide and act for themselves their own contrived system of ethics. Although this concept was not articulated directly in the *Crito*, it is clear that Socrates was referring to this idea of the rule of law when he makes the case that it would be wrong for him as an individual to refute the dictates of the state and determine for himself what the moral action is to do. The Laws begin their speech with the question, “(c)an you deny that by this act which you are contemplating you intend, so far as you have the power, to destroy us, the Laws, and the whole State as well?” (*Crito*, 50b) This is a clear indication that Plato views escaping from prison and attempting to destroy the laws as equivalent. Society functions around the ideal that the laws of the state are effective and recognized by those they prevail over, and this allows people to live their lives and exercise their rights in an environment which is based upon certain values and principles enforced by the law. The Laws argue that Socrates’ escape from prison would work to undermine the strength of the rule of law because of the fact that it is an action which exhibits a blatant disregard for the laws of the state which sentenced him. This promulgates an attitude that weakens society’s overall conception of the strength of the laws and therefore the imperative on citizens to respect them. The laws of a state cannot be effectively employed if every citizen decides for themselves whether they will obey the particular law in question when deciding their actions. There cannot be exceptions in obedience to the rulings of the state because this goes against the function of the legal system in general, which it to promote equal, unbiased justice to all. If Socrates escaped from prison this would promote a sense of disrespect for the laws of Athens and their rulings, and could perhaps influence the attitudes of other citizens towards the rule of law. This threatens the power of the state over its citizens and can increase the risk of rebelling or revolt. It would be wrong, therefore, for Socrates to work to undermine the rule of law through escape because the legal system promotes peace in society, which is a moral good.

The second argument the Laws presents is that it would be wrong of Socrates to escape because of the special relationship between himself and the state of Athens. The Laws argue that Socrates has an obligation to obey the state because of the special relationship between himself (Socrates) and the state, which resembles that of a parent and their child. The Laws argues that the state has raised Socrates and nurtured him, and since it has provided him with a good upbringing, he owes them his obedience. The state created the conditions for Socrates’ mother to

marry his father and for them to have a child, created the conditions which stipulated he must be raised and educated in a certain manner, and commanded his father to train him in music and gymnastics. It would be wrong to refute the commands of the state because of how much they have contributed to heighten the quality of Socrates' life, and because of the special bond of gratitude and respect he owes the state resembling that between a parent and their child. Socrates, as told by the Laws, ought to accept his punishment without enmity because the Laws have the power and right to decide what is morally right and wrong, and it is not Socrates' place to question their dictates. As the Laws question, "(t)hen since you have been born and brought up and educated, can you deny, in the first place, that you were our child and slave, both you and your ancestors? And if this is so, do you imagine that your rights and ours are on par, and that whatever we try to do to you, you are justified in retaliating?" (*Crito*, 50e) The Laws go even further with this idea by proposing that the state deserves even more obedience and respect than one's parents, and therefore it would be an even more serious wrongdoing to disobey them rather than one's parents. As the Laws illuminate, "(a)re you so wise as to have forgotten that compared with your mother and father and all the rest of your ancestors your country is something far more precious, more venerable, more sacred and held in greater honour both among gods and among reasonable men?" (*Crito*, 51b) The Laws argue that Socrates has not challenged any of the rulings or proceeding of the laws thus far in his upbringing in Athens, and it is unreasonable, therefore, that he should reject the decision of the legal system to sentence him to death.

The third argument the Laws propose is that it would be wrong for Socrates to escape from prison because he has made a tacit agreement with the state, by remaining in Athens, to obey their laws. As the Laws explain, "(a)lthough we have brought you into the world and reared you and educated you, and given you and all your fellow-citizens a share in all the good things at our disposal, nevertheless by the very fact of granting our permission we openly proclaim this principle: that any Athenian, on attaining to manhood and seeing for himself the political organization of the State and us its Laws, is permitted, if he is not satisfied with us, to take his property and go away wherever he likes." (*Crito*, 51d) The Laws argue that Socrates has remained in Athens all his life (except for several occasions), able to freely choose whether to remain in Athens or to leave, and therefore he, even more prominently than other citizens, has tacitly showed that he acknowledges the laws of the state and agrees to live according to their

rulings. The Laws point out several instances which strengthen the theory that Socrates made a tacit agreement with the laws of the state, such as that Socrates rarely travelled from Athens, acquiesced until this point in his life with the laws, and raised his children in the state. These instances of tacit acceptance of the laws of Athens over the course of Socrates' life, the Laws argue, created a tacit agreement between the state and Socrates that he will obey the laws in order to reap the protection and benefits the state provides. If Socrates escaped from prison he would be breaking his agreement of obedience to the state and this would be wrong because it is morally wrong to break just contracts. The contract between the state and Socrates is just because it was created freely, in so far Socrates was free to move away from Athens if he wished.

The *Crito* is one of the earliest works which addresses the question of civil disobedience. In the *Crito* Socrates decides that the arguments from the Laws are valid in their reasoning as to why it would be wrong for him to disobey the state and escape, and therefore decides to remain in prison and accept his death sentence. I do not believe that Socrates made the correct decision by remaining in prison because I do not believe, as opposed to Socrates, that one's obligation to the state is absolute. Rather, I believe that one's obligation to the state is based on the morality of the state's actions. I believe that since the jury falsely charged Socrates with crimes he did not commit, additional conditions pending, it would be morally justifiable for him (Socrates) to commit civil disobedience by escaping from prison.

1.2 Defining Civil Disobedience

The term civil disobedience was first iconically employed in Henry David Thoreau's 1848 essay titled *Civil Disobedience*, in which he explains why he refused to pay his state poll tax that the American government had enforced in order to fund a war in Mexico and institute the Fugitive State Law. Thoreau did not support the government's actions in this regard and as an act of civil disobedience, to protest the cause towards which the tax funds would be directed, refused to pay. (Brownlee, 2007) Thoreau's refusal to pay his taxes was an act of civil disobedience because it involved a conscientious breaking of the law, done with the motivation of correcting or appropriately addressing a moral wrong he (Thoreau) believed the state was perpetrating. Thoreau opens *Civil Disobedience* with the statement, "I heartily accept the motto,

‘That government is best which governs least’; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe—‘That government is best which governs not at all’.” (Thoreau 1993, 11) This bold introduction to the topic of civil disobedience presents Thoreau’s view very clearly. Thoreau does not believe that it is the state’s place to determine the actions of its citizens and therefore believes that in matters which are not essential to the protection of the rights and liberties of citizens, the state has no valid authority. Civil disobedience is an important tool, therefore, to reject the laws/rulings one does not believe are morally correct, and to preserve the freedom of individuals in the face of the state.

In addition to Thoreau, John Rawls is a prominent character in the discussion of civil disobedience. Rawls defines civil disobedience as “a public, non-violent and conscientious breach of law undertaken with the aim of bringing about a change in laws or government policies.” (Rawls 1971, 320) While Thoreau is one of the main proponents of the use of civil disobedience, Rawls works to more narrowly define the nature of the act and purpose that civil disobedience must encompass in order to be deemed valid. According to Rawls an act of civil disobedience must be public, non-violent, conscientious, and done in an effort to change the law in question. Rawls’ first provision required of an act of civil disobedience is that it must be done publicly. Rawls believes that for an act of civil disobedience to be categorized as such it must be done publicly in order to draw the attention of other citizens, and raise social awareness of the issue it is being done in protest of. This is just, according to Rawls, because it allows the act to be addressed by the proper authorities and heightens the quality of life in society by raising awareness of state injustices being perpetrated. The public aspect of Rawls’ definition of civil disobedience is highly debated. Potential arguments against Rawls may point out that sometimes in order for an act of civil disobedience to be successful it must be done secretly, and be kept secret, until it is completed, otherwise the authorities of the state may try to interfere in order to stop it. The second required aspect of Rawls’ definition of civil disobedience is that the act must be non-violent. Rawls believes that violent acts are incompatible with the aim of civil disobedience, which (according to his definition) is to raise awareness of the state’s wrongdoings. Rawls believes that one cannot draw attention to a moral wrong (in most cases) through violent methods because these, in turn, can lead to immoral consequences. The

stipulation of non-violence by Rawls is another major point of contention in his definition of civil disobedience. The alternative view is that harms of a certain severity can only be combated successfully with violence, and this violence is morally justified. The third aspect of Rawls' definition is that acts of civil disobedience must be done conscientiously. The act must be executed because the civil disobedient believes that a moral wrong has been committed by the state and they want to illuminate this wrongdoing. The agent must believe that the law they are protesting against facilitates serious moral wrongs, in a way that is genuine and informed. Acts of protest against laws that a citizen dislikes because they are inconvenient or unappealing, for example, would not count as valid acts of civil disobedience because they are done for trivial and superficial reasons, and the laws in question do not facilitate moral wrongs. An example of an illegitimate and superficial act of civil disobedience would be a citizen who wishes to protest the snow tire law in Quebec, Canada. In Quebec it is legally mandatory that from the 15th of December to the 15th of March all vehicles driving on the road must have snow tires. (Société de L'assurance Automobile - accessed 23/02/16) This law is designed to protect citizens' safety by imposing a requirement for snow tires to be used on cars during the winter months. Quebec is a province in Canada which receives heavy snowfall and severely cold temperatures, which makes driving very hazardous. This law is effective as well as necessary, and a civil disobedient, therefore, would have no moral justification for protesting against it. If a civil disobedient, for example, did not agree with the law and wished to protest the imposition of snow tires on their car, they would not be engaging in a morally justified act of civil disobedience. The act of civil disobedience would not be morally justified because there is no serious moral wrong being perpetrated by the state, as the basis of the civil disobedient's anger towards the law is derived from the annoyance of having to change their tires for the winter season. The final aspect of civil disobedience Rawls proposes is that the act must be done in an attempt to change the law in question. An act of civil disobedience, according to Rawls, is not only done to draw attention to a moral wrong, but to prevent it from occurring again in the future by striving to have the law in question changed. This aspect of civil disobedience, as well as that of publicity, promulgates Rawls' belief that the aim of civil disobedience is not only to illuminate moral wrongs, but to improve society through doing so.

One example which accurately represents Rawls' definition of civil disobedience is the controversy over LOVE Park in Philadelphia. (Adam Bhala Lough, 2015) In 1965 a city planner named Edmund Bacon created the layout for the John F. Kennedy Plaza, or as it would become known, LOVE park, right across from the Philadelphia City Hall. Unbeknownst to Bacon, LOVE Park ended up being a perfect layout for skateboarding and became overrun. In 1995 Philadelphia Mayor John Street made it illegal to skateboard on the park and the skateboarding community was outraged. The skateboarding community was angry that they were not allowed to skate on the park, however these were not superficial complaints about the geography of where they were able/not able to skateboard. LOVE park had become a space wherein skateboarders would gathered from afar to skate on, a symbol and mecca of the urban skateboarding community, and they therefore saw the law banning skateboarding on LOVE park as a fundamental breach of their freedom. The designer of the park Edmund Bacon morally opposed Mayor Street on his ban on skateboarding in the park, and engaged in an act of civil disobedience in order to protest it. As Chris Cole explains, "Edmund Bacon....who designed this plaza, was delighted that it was used by skateboarders and actually appreciated by skateboarders, rather than just vagrants who were hanging out. He was delighted and wanted skateboarders to stay." (Chris Cole, as quoted in Adam Bhala Lough, 2015) Bacon decided to skateboard on the park in open defiance of the law banning skateboarding. He stated, "I want to ride a skateboard across LOVE Park and get arrested....I want to protest what the mayor has done to LOVE Park." (Altman- accessed 17/02/16) As he declared before skating on the park, "(a)nd now I, Edmund Bacon, in total defiance of Mayor Street and the council of the City of Philadelphia, hereby exercise my right as a citizen of the United States and I deliberately skate in my beloved LOVE Park." (Edmund Bacon, as quoted in Adam Bhala Lough, 2015) This act of civil disobedience by Bacon encompasses all the necessary aspects of Rawls' definition of civil disobedience. Bacon's act was done in public, openly during the middle of the day, non-violently and in an attempt to shed light on the injustice of the law as well as have it changed. In addition, Bacon was willing to accept the repercussions of his actions and get arrested as a sign of his respect for the rule of law. Although Bacon's act encompassed every aspect of Rawls' definition of a valid act of civil disobedience, it did not succeed in changing the law banning skateboarding at LOVE park. Skateboarding is still banned there to this day. This example sheds light on the fact that although civil disobedience is recognized as a useful political tool to help

correct/appropriately address wrongdoing by the state, it is not always successful in achieving its aims.

1.3 Types of Wrongs which Warrant Civil Disobedience

To engage in an act of civil disobedience is a serious matter. The consequences of it may have great implications for society, as well as putting the agent engaging in the act in legal trouble. To decide to engage in an act of civil disobedience involves several processes. Firstly, an agent must identify a moral wrong perpetrated by the state and make the personal conscientious decision that they want to correct or appropriately address the wrongdoing. The agent must decide that the wrongdoing being promulgated by the state is so severe that it morally justifies breaking one's political obligation to obey the law. One aspect of the question of civil disobedience which creates much debate, however, is what type of wrongdoing is considered severe enough to warrant the moral justification of citizens breaking their political obligation to the state in order to correct/address. Although there is much diversity in the types of theories which attempt to provide a moral justification of political obligation, most theories explaining political obligation propose the notion that people do, in fact, have a political obligation to the state and that this obligation is morally justified. According to these theories, therefore, since one's political obligation to the state is morally justified and valid, a very serious moral wrongdoing by the state is required in order to morally justify a citizen overriding this obligation. The debate, therefore, is over what type/level of wrong morally justifies an overriding of one's obligation to the state. Based on the theory of political obligation one subscribes to the severity of harm that warrants an overriding of one's obligation varies. Political obligation theories which propose a more relaxed obligation to the state will allow for a less severe wrongdoing to warrant overriding political obligation, whereas theories that propose a strong and necessary obligation to one's state will require more severe wrongdoings in order to morally justify breaking one's obligation.

Regardless of what theory of political obligation informs one's view of civil disobedience (apart from Anarchism), it is clear that the wrong addressed by any act of civil disobedience must be serious enough to morally justify breaking one's political obligation. The harm produced

by the wrongdoing of a state cannot be arbitrary or superficial, but rather must be a serious harm which undermines basic interests and prevents a good quality of life with dignity for citizens. The harm promulgated by the wrongdoing of the state may allow for harm to be directed, in certain instances, towards an agent's individual interests, however the harm in question must be objectively serious. At this point I wish to introduce the notion that the harm promulgated by the state is not determined by how much it works to disrupt the course of justice within a state (as Rawls would judge the severity of the harm), but rather takes many different forms. Within my thesis I take any harm to people's (valid and reasonable) interests as a serious wrongdoing, at a level of severity which warrants civil disobedience to correct/address. The type of harm which morally justifies the use of civil disobedience excludes those wrongs which the state engages in that: 1) do not violate the values which undermine basic interests and prevent a good quality of life with dignity for its citizens or cause unjustified suffering or death to sentient creatures, or cause harm to future generations and 2) are readily rectifiable. These types of harms can be easily identified and corrected within the state, and there is therefore no need in these cases for citizens to resort to civil disobedience in order to incite political change.

Note that, on my theory, harms which undermine basic interests and prevent a good quality of life for citizens with dignity are not the only conditions which warrant civil disobedience. In my thesis I hold that harms which cause unjustified suffering or death to sentient creatures, or cause harm to future generations, also qualify as of the level of severity which warrants the use of civil disobedience in order to correct/address. I believe that sentient creatures have moral considerability in so far as they have interests which humans have a moral duty to protect and whose well-being counts morally. While the natural environment does not hold the same moral standing as sentient creatures I believe that harm done to the environment is morally wrong because of the harm it perpetrates towards future generations. My definition of civil disobedience, therefore, extends to encompass civilly disobedient action in regards to the protection of animal rights and environmental causes.

The harms which morally justify civil disobedience may be judged to vary depending on the system of ethics one follows. It may seem counterintuitive to justify acts that would ordinarily be immoral in order to correct/address moral wrongdoing perpetrated by the state,

however, because the interests/values attacked by the wrongdoing are so important the nature of the moral situation changes to make ordinarily immoral actions correct moral choices. Examples of such interests/values may be the right to life, liberty and property. The common factor which unites these elements is that they are necessary for humans to live a good quality of life with dignity. Citizens are able to live free, fulfilling lives because they are able to operate within a community that protects the rights, interests and values which facilitate this lifestyle. Moral wrongdoings perpetrated by the state which attack the conditions by which humans are able to live and thrive must be corrected/addressed. Acts of civil disobedience involving actions which would ordinarily be considered moral wrongs, therefore, are morally justified because of the importance of the rights/interests/values that they are defending and the severity of the moral wrongs which attack them. An act of civil disobedience has within it both morally good and (ordinarily) morally bad elements. It is undertaken in an attempt to produce a moral good (correcting the wrongdoing of the state), however it involves breaking one's obligation to the state and may involve ordinarily immoral action. Justification of action as morally right or wrong must be determined using the relevant considerations of the situation. Acts of civil disobedience, therefore, morally justify the use of certain actions which ordinarily would be deemed immoral because of the special nature of the circumstances surrounding them. It seems problematic to believe that ordinarily immoral action can be used in a morally justified way to correct or appropriately address the wrongdoing of the state, however this is sometimes the necessary response to stop certain types of wrongdoing. Moral theory is not useful unless it can be applied effectively in a non-ideal world. Theories of morality, therefore, which restrict action to such a degree that few options of recourse are left to the victim of the wrongdoing are not satisfactory. Although one may argue that it is immoral to use certain methods, for example violence, to correct/address a wrongdoing, sometimes circumstances do not allow for any other options save for simply accepting the harm.

Once an agent has identified a moral wrongdoing committed by the state and decided they want to correct or appropriately address this wrongdoing, the agent must determine whether or not the act can be morally justified. Civil disobedience, as mentioned earlier, may involve ordinarily immoral action to correct/address the wrongdoing it is, but only up to a point. There must be strict limits put on the amount of (ordinary immoral) morally justified action which can

be involved in an act of civil disobedience in order for it to remain morally justifiable. The response of a civil disobedient to a moral wrongdoing being perpetrated by the state must be tempered so that it does not become (even close to) as wrong or more morally wrong than the wrongdoing it is attempting to correct/address. An act of civil disobedience, in order to be morally justified, must be significantly less morally wrong than the wrongdoing it is addressing. Certain considerations must be addressed before an act of civil disobedience is engaged in. The following stipulations are baseline requirements which must be examined and completed in order to allow for the possibility of an act of civil disobedience being morally justified once the remaining circumstances of the situation are taken into consideration. They are: 1) whether all reasonable avenues of legal action have been taken to try and correct/address the wrongdoing, 2) whether the act of civil disobedience is a less severe wrongdoing than the wrongdoing of the state, and 3) the amount of harm which will result to all agents affected is minimized.

The first stipulation is whether all the reasonable avenues of legal action to remedy the wrongdoing have been attempted. A response through civil disobedience to a wrongdoing which is driven by (unreasonable) emotions and done on an impulse at the first sight of an injustice, cannot be morally justified (unless the nature of the wrongdoing is such that it requires immediate action to correct). It cannot be morally justified because the agent, by acting immediately without going through the reasonable legal options, has not respected the rule of law. By refusing to seek a solution through legal methods the agent has put themselves above the rule of law, and through this action, puts themselves above the moral status of other citizens. By believing it is permissible to disregard the laws of the state without looking for reasonable legal recourse, and seeking to achieve justice through their own means, the civil disobedient unreasonably and morally unjustifiably breaks their obligation to the state. Although an agent who has attempted to find a solution to a moral wrongdoing they wish to correct/appropriately address through legal means may resort to breaking the law (if the law has not succeeded in correcting the moral wrong), the breaking of their political obligation may be morally justified as opposed to that of the agent who did not attempt to find a solution within legal means. Although breaking one's obligation to the state is ordinarily morally wrong, the breaking of the political obligation of the agent who attempts to go through the legal alternatives before resorting to illegal action is morally justified because of their adherence to the prerequisite conditions of

moral justifiability of civil disobedience as well as the changed moral circumstances of their situation. In addition, the stipulation that an agent must attempt all *reasonable* legal courses of action eliminates the problem of unjust legal systems or ineffective legal schemes, so that an agent is not obliged to seek recourse through these deficient methods. In order for an act of civil disobedience to be able to be morally justified, therefore, an agent must seek to correct the moral wrongdoing through all the reasonable legal channels available before they resort to breaking their political obligation.

The second stipulation upon morally justified acts of civil disobedience is whether the act is an appropriately proportioned response to the wrongdoing being promulgated by the state. An act of civil disobedience must engage in a significantly less harmful action than the wrongdoing it is attempting to correct/address. Responses to wrongdoings through civil disobedience which cause excessive harm or damage do not qualify as justifiable because they are not reasonable. In order to be morally justifiable, the harm produced by an act of civil disobedience must be significantly less severe than the wrongdoing it is attempting to correct/address because to respond to a moral wrongdoing with an “eye for an eye”, in other words, to match one’s response to the wrongdoing, would be to engage in the same level of moral wrongdoing as the wrongdoing of the state. The harm of the civil disobedient must not only be less severe, but significantly less severe, in order to morally justify one’s action. The aim of civil disobedience is not to destroy those who disagree with one’s opinion, but rather to respond to a specific wrongdoing in an attempt to correct or appropriately address it. An act of civil disobedience, therefore, ought to be minimized to the least harmful act which will successfully correct/appropriately address the wrongdoing at hand.

Violence and killing may be justifiably used in an act of civil disobedience, however these actions can only be used in extreme cases in which the harm of the state presents an existential threat to society. Violence and murder are moral wrongs which violate the rights to life and security of person, which are essential to a good quality life with dignity each person ought to be afforded by virtue of their humanity. Since acts of violence and murder violate such important and necessary rights, these acts cannot be easily morally justified. Engaging in acts involving violence or murder cannot be morally justified under ordinary circumstances of civil

disobedience because not only do they violate the rights of the person to whom the action is directed, but they also corrupt the moral status of the civil disobedient perpetrating them. Acts such as violence or murder are of such a nature that they corrupt the moral character of the agent who engages in them, except for in very specialized circumstances, regardless of the reason they engage in the acts. The nature of the harm produced by acts like these is such that it cannot be morally justified in the face of ordinary moral wrongdoing. The harm perpetrated by violence and murder is of such a serious level that in ordinary cases of wrongdoing the harm produced by the acts of violence or murder by the civil disobedient is of the same order of moral wrongness as the wrongdoing it is attempting to correct/address. Acts such as these, therefore, must be used under very strict circumstances in order for them to be able to be morally justifiable. Acts of violence and murder may be perpetrated after all other reasonable non-violent routes have been attempted, where the threat perpetrated by the state is such that it would destroy the way of life of those within society if it was not stopped, and where either violence or murder is the only feasible way to stop the wrongdoing of the state. In these specialized cases, wherein a civil disobedient engages in morally justified violence to stop a wrongdoing of the state, the wrongdoing of the state must be so severe that it would threaten social life if it were not stopped. In these cases, where the threat from the state is of such a severity that it necessitates either the destruction of social life as we know it or the use of violence or murder to destroy the threat itself, acts of violence or murder can be morally justified. Even in these circumstances, an agent of civil disobedience is required to do everything in their power to minimize the harm caused to both innocent and guilty parties in the wrongdoing.

An example of the second stipulation of proportionality is a person who wishes to engage in an act of civil disobedience against a construction company which is bulldozing down a forest. The civil disobedient believes that the destruction of the forest is a serious moral wrong, for example it is a wrong perpetrated against future generations, and therefore wants to correct/address this wrong by sabotaging the company's bulldozers so that they cannot be used to tear down trees. One way to accomplish this task is to plant a bomb in the bulldozers and blow them up. This method would successfully accomplish the task the civil disobedient is striving to achieve. Another method, however, would be to disconnect or damage a small part of the engine so that the bulldozers no longer work. This method would also successfully accomplish the civil

disobedient's task. The course of action which ought to be chosen is the method involving sabotaging/damaging the engines of the bulldozers, rather than blowing them up with a bomb. This option is morally justified because the response to the wrongdoing is tempered to be significantly less severe than the wrongdoing itself. The wrongdoing of the bulldozing company is such that although it is morally wrong to destroy a forest, they did not engage in actions (in this example) that involved direct harm to the lives or property of humans. This is not to ignore the harm people may have to address in the face of relocation if they lived in the forest, or the harm they could suffer if their livelihood rested on the provisions of the forest, however the harm they are facilitating in this example is of a different nature than physical harm. To bomb the bulldozers would be a wrongdoing which is not a reasonable or appropriate response to the harm being promulgated, and therefore could not be morally justified. The act involving damaging the engines is a much less harmful response to the original wrongdoing, and therefore is more likely to be able to be morally justified (depending on the other considerations of the situation). Although it seems intuitive that it is morally correct to temper responses to wrongdoings with less severe methods than the wrongdoings themselves, this provides no concrete instructions on how to decide what response is appropriate to any given wrongdoing. This problem cannot be solved by a universally applied calculus, but rather must be decided in each separate instance, taking into consideration the relevant circumstances of the situation.

The third consideration which must be satisfied in order to allow for the possibility that an act of civil disobedience is morally justified is the amount of both innocent and guilty agents the act will harm. Although it is generally wrong to kill or harm an innocent person, sometimes circumstances are such that it is a necessary action which must be engaged in in order to correct/address a more severe moral wrong. To harm or take the life of an innocent agent is ordinarily morally wrong, however to harm or take the life of any person, regardless if they are guilty of participation in the state's wrongdoing, is ordinarily wrong as well. This stipulation upon justified civil disobedience is very straightforward. In order for an act of civil disobedience to be morally justified it must harm the least amount of agents possible in the achievement of its goal. An agent of civil disobedience must choose the method they will use to correct/appropriately address the wrongdoing of the state which will result in the least amount of harm being done to all agents involved. To engage in any method other than the one in which the

least amount of agents are harmed would be excessive and unreasonably harmful, and therefore could not be morally justified.

Under my account, the only necessary element to define an act of morally justifiable civil disobedience is that it must be a breaking of the law with the conscientious motivation of correcting or appropriately addressing a moral wrongdoing perpetrated by the state. Due to the inclusive nature of my definition of civil disobedience it can be (falsely) interpreted as including a large scope of morally-concerning breaches of the law, such as: failure to pay taxes (through secret and illegal means), violation ('pirating') of intellectual property, Robin Hood-esque 'stealing from the rich to give to the poor', terrorism, insurgency, espionage and vigilantism. To consider all of these acts of conscientious law-breaking as instances of morally justifiable civil disobedience under my definition, however, is incorrect.

As stated previously, civil disobedience may involve ordinarily immoral action to correct/appropriately address a wrongdoing of the state, but only up to a point. There must be strict limits put on the amount of (ordinarily immoral) morally justified action which can be involved in an act of civil disobedience in order for it to remain morally justifiable. An act of civil disobedience, in order to be morally justifiable, must be significantly less harmful than the wrongdoing it is addressing. This constraint automatically eliminates terrorism and insurgency as acts of morally justifiable civil disobedience, as they produce exorbitant levels of harm which cannot be tempered to align with the proportionality constraint. Similarly, in the case of vigilantism, the proportionality constraint, in most circumstances, would prevent this action from being classified as an act of morally justifiable civil disobedience. Only in specific circumstances, where the act of vigilantism is less harmful than the wrongdoing it is attempting correct/appropriately address, would the act be qualified as a morally justifiable act of civil disobedience. In the cases of failure to pay taxes, violation of intellectual property, Robin Hood-esque theft and espionage, these actions would only qualify as instances of morally justifiable civil disobedience if they were engaged in in an attempt to correct or appropriately address a wrongdoing of the state. Failure to pay taxes could not be considered a morally justifiable act of civil disobedience as it qualifies as an attempt to escape involvement in a wrongdoing of the

state, rather than an attempt to correct or appropriately address the wrongdoing. Furthermore, the act of refusing to pay one's taxes cannot be directed at the correction/appropriate addressing of a specific wrongdoing as taxes are collected for a government's general use rather than to facilitate specific agendas. The act of refusing to pay one's taxes, therefore, must be interpreted as being directed towards the state in a general manner, which cannot qualify as a morally justifiable act of civil disobedience as my definition specifies it. Violation of intellectual property and espionage would only be considered morally justifiable acts of civil disobedience if they were engaged in in an attempt to correct/appropriately address a wrongdoing of the state, and the information which would be illegally accessed is necessary for this endeavour. In these cases, however, the state wrongdoing would have to qualify as severe enough to warrant the violation of intellectual property or state privacy (in the case of espionage). Finally, in the case of Robin Hood-esque theft, only in extreme situations, in which the economic distribution of the state was so severely unjust that it facilitated the level of harm which warrants civil disobedience (for example, citizens are starving because of the unjust distribution of wealth) and the civil disobedient engaged in the theft in an attempt to correct/appropriately address this wrongdoing, would my definition permit this act to be qualified as an act of morally justifiable civil disobedience.

The types of wrongs which warrant civil disobedience, therefore, are those which undermine basic interests and prevent a good quality of life for citizens with dignity, cause unjustified suffering or death to sentient creatures, or cause harm to future generations. An act of civil disobedience may involve ordinarily immoral action, which can be morally justified in the context of the severity of the wrongdoing it is being used to correct/address. Acts of civil disobedience may involve justified ordinarily immoral action, however only up to a point. There must be certain stipulations assessed and met in order for the civilly disobedient action to meet the base requirements of moral justification. These stipulations are that the civil disobedient has attempted to find a solution using all the reasonable legal options available, the action is a significantly less severe response to the wrongdoing, and the act results in the least amount of harm possible to all agents involved. After these requirements are met the act of civil disobedience is eligible to be morally justifiable. However, it is a matter of objective moral truths

whether it is, in fact, morally justified. These objective moral truths will be discussed in further detail in chapter four.

Chapter 2

2.1 Political Obligation

The question of political obligation is, simply put, the question of whether citizens have a moral duty to obey the laws of their state, and if this obligation exists, whether it is morally justified. The following four theories are all answers to the question of political obligation, with a diversity of arguments supporting the idea that citizens do have political obligation, and why this obligation is morally justified. The theories are: voluntarist, teleological, deontological and associative. Although they provide initially satisfactory answers to the question of political obligation, they all have errors within them which I believe undermine the strength of their arguments. I believe the most satisfactory theory of political obligation is John Rawls' theory of the natural duty to support just institutions, and I defend Rawls' theory in this chapter. I believe that Rawls' theory is the most satisfactory because it encompasses important elements that other theories highlight, but none of which unify as successfully. I believe that Rawls' duty to support just institutions is the most persuasive theory because it reflects the importance of one's commitment to the society into which one is born, as highlighted in the associative theory, however also addresses the importance of the proposition that a citizen's obligation to the state is based on the state's morality. Rawls theory, therefore, promotes an answer to the question of political obligation which is both practical, in so far as humans are necessarily born into societies, and reasonable, because it does not bind citizens irrevocably to the state, but is rather based on the merit of the state in order to gain the morally justified obligation of its citizens.

I will not address anarchist accounts of political obligation in detail. I do not believe that the anarchist theory of political obligation is a satisfactory theory, because it has one major error within it that nullifies its viability. Anarchist theory is based on the idea that the state has no legitimate authority over citizens because human beings are born autonomous agents with the power and right to determine their actions freely (unless these actions impede the freedom of others). According to this theory people do not have any obligation to the state, and if they believe that they do this is an illusion. The major criticism levelled against this theory, however, which I believe undermines its persuasiveness to a fatal point, is that it ignores the fact that

humans are born into social environments and have a corresponding obligation to the society they are born into. As John Horton explains in his book *Political Obligation*, anarchism denies the fact that humans are innately social creatures and that this imposes corresponding obligations upon them. Humans are born to parents, who form a society in and of itself, and then are not fully autonomous for many years afterwards. They rely on their parents/caregivers to provide for them and make decisions because they physically and mentally cannot do so themselves. Not only does anarchist theory ignore the fact that human infants are physically unable to make decisions regarding their action for many years, it also denies the intuitive belief that since humans are forced to live together in communities, be it from practical necessity or geography, they have obligations to one another. A theory of political obligation, therefore, which denies the relationships and social situations humans are necessarily a part of, cannot be a correct answer to the question of political obligation.

2.2 Voluntarist Theories

Voluntarist theories of political obligation focus on consent as the key moral justification of political obligation. According to voluntarist theories political obligation is entered into voluntarily by citizens, who consciously accept and give their consent to the authority of the state. In these theories voluntary consent is needed to morally justify the obligation a citizen has to the state. Voluntarist theories are one of the most prominent answers to the question of political obligation, and have been explored since the beginning of philosophical debates regarding politics and the relationship between citizens and the state. In the *Crito*, Socrates argues that he has made a free agreement with the state through his actions to abide by the laws of the state and therefore has an obligation to obey the laws of the state. In this work Socrates makes an argument for a voluntarist theory of political obligation explaining that although he was free to move away from Athens he chose to remain and live in the state, marry under its laws, raise his children there, and he therefore has an obligation to obey the laws. As the Laws explain to Socrates, “(i)f anyone of you chooses to go to one of our colonies, supposing that he should not be satisfied with us and the State, or to emigrate to any other country, not one of us Laws hinders or prevents him from going away wherever he likes, without any loss of property. On the other hand, if any one of you stands his ground when he can see how we administer

justice and the rest of our public organization, we hold that by so doing he has in fact undertaken to do anything that we tell him..." (*Crito*, 51d) Although the first traces of voluntarist theories of political obligation were found in the *Crito*, two of its most famous proponents are Thomas Hobbes and John Locke. Hobbes explains his voluntarist theory of political obligation in his work *Leviathan*. Hobbes promotes the view that social contracts are formed between people in an attempt to escape the state of nature. People engage in contracts between each other to create and obey a common authority in order to escape the state of nature, in which the life of man is, "solitary, poor, nasty, brutish and short." (Hobbes 1651, 124) Hobbes' theory is such that once obligation is given to the state it is irrevocable and citizens are bound to obey the laws of state unless they (the laws) are working to directly harm them. According to Hobbes' account the reason citizens band together to form a state is to escape the state of nature and allow themselves to flourish under better living conditions facilitated by the state. John Locke provides an alternative account of voluntarist theories of political obligation in his *Second Treatise on Government*. While Hobbes' theory is comprised of one step in order to form political obligation, which is citizens deciding to create and obey a government in order to rescue themselves from the state of nature, Locke's theory requires two steps and is aimed towards a different purpose. As Horton explains, in Locke's theory "political authority arises in two stages: first through a unanimous contract to form political society, and then by a majority decision to entrust a government with legislative, executive and judicial powers. Throughout this process people retain their natural rights to life, liberty and property: the purpose of forming a political society with a government is to provide for the better protection and impartial enforcement of these rights than is possible in the state of nature." (Horton 2010, 22) Locke's theory contains more safeguards for citizens in so far as it does not create an irrevocable obligation to the state, but rather bases the obligation of citizens on the morality of the state to which obligation is entrusted.

Voluntarist theories come in many forms and there are many opinions on the specifications in these theories regarding the voluntary act necessary to create political obligation, the conditions which would render it a truly free decision, the nature of the obligation created and the requirements/extent of this obligation. The first major point of contention within voluntarist theories is what form the act must take which creates political obligation. One

example is the contract version of voluntarist theories. According to this account citizens must agree to a contract between themselves and the state, which explicitly outlines the obligation into which the citizen is entering. In this version the agent must theoretically agree through verbal acknowledgement or written signature to the obligation into which they are entering. Another version of voluntarist theories states that either explicit or tacit signs of consent to the state's authority over citizens is enough to generate political obligation. Under this account citizens enter into a contract with the state if they either explicitly agree to the obligation or show signs of tacit consent to the laws and authority of the state. Examples of signs of tacit consent to the state could be owning property, marrying and raising children in the state, living in the state for many years, or any action that shows one's content with the state in so far as one continues to reside there even if one is free to move away. The second area of contention within voluntarist theories is that it is not specified what conditions are necessary in order to render the decision to enter into an obligation with the state truly free. In order for one to enter into a valid obligation to the state, one must give their consent freely. The conditions which make the decision truly free, however, are uncertain. There are considerations of physical geography which may prevent citizens from moving, as well as laws which work to prevent citizens from leaving a state. In addition, the conditions which facilitate true freedom are highly contested and too complex to explore in further detail in this work. The third highly contested consideration in voluntarist theories is the nature of the obligation created through giving one's consent to the state. Although the idea of a contract seems fairly straightforward, the details of this theoretical contract with the state are uncertain. With whom would one enter into the contract? It is illogical to believe that one can enter into a contract with a non-person such as the state, so does one enter into the contract with other citizens in society instead? In addition, questions about to whom one is obligated remain unanswered if it is not certain with whom one is entering into the contact. Would one have an obligation to the state or their fellow-citizens? This confusion then translates into uncertainty regarding the extent and requirements that the obligation would encompass. Although these considerations raise important questions which different voluntarist theories answer in their respective ways, the failings of the voluntarist theory of political obligation have to do with the nature of the argument it is promoting.

There are three major flaws in the voluntarist theory of political obligation which Horton highlights: 1) society as a voluntary undertaking rests on a prior agreement to keep one's promises, 2) the idea of society as a voluntary undertaking does not reflect our own ideals about citizens' relationship with the state, and 3) the nature of humans implied by voluntarist theories is inaccurate. (Horton 2010, 42) The first flaw in the voluntarist theory is the logical error upon which its theory rests. The idea that society is a voluntary undertaking would necessitate that political obligation would only be effective if there was an already established agreement between citizens that it is morally right to keep one's promises (to obey the state if one enters into a contract with it). Since the most important element in the voluntarist theory is consent, however, this agreement to keep one's promises cannot be imposed without the consent of the citizen to which it applies. A contract, therefore, must have been made between citizens to form this agreement, into which the members of society entered willingly. This establishment of the agreement to uphold one's promises, however, again leads to the problem that in order to form this agreement there must be a prior agreement that it is morally right to keep one's promises, which continues the circular problem of voluntarist theories *ad infinitum*.

The second flaw in voluntarist theories is that the idea of society as a voluntary undertaking is not an accurate representation of the relationship between citizens and the state. The idea which underlies voluntarist theories is that humans are born as free agents, who are able to decide into which contract with which state they wish to enter. This is not accurate. In reality citizens are born into a state and are considered members of that society the moment they become a part of it. Citizens are often physically unable to move states and are sometimes prevented from doing so due to rules already imposed on them by the state into which they were born. Society, therefore, is not considered a voluntary undertaking, but rather a practical reality with which citizens are faced the moment they are born. Horton provides an explanation from Neil McCormick. "Human societies are not voluntary associations. At least so far as concerns national societies and states, most human beings do not have a choice which one they will belong to, nor what shall be the law and the constitution of that to which they do belong; especially their belonging to a given state is not conditional upon their assenting to the basic structure of its organization." (MacCormick 1982, 84 as quoted in Horton 45) This critique of voluntarist theories of political obligation leads smoothly to the final critique Horton mentions, which is that

voluntarist theories do not accurately portray human nature. In voluntarist theories humans are portrayed as free and unbiased agents with the ability to decide which society they wish to become a part of. Horton explains that in voluntarist theories, “persons are conceived as separately existing entities, only contingently related to each other and to their social context, possessed of natural freedom, at least, and some minimal measure of reason.” (Horton 2010, 47) This is not an accurate account of human nature because it ignores the fact that people are influenced by the society in which they live, which in turn affects their decisions regarding political obligation. As Horton explains, voluntarist theories create the illusion that people are born as isolated units, removed from any affiliation to the society into which they are born. This idea is mistaken because the society into which one is born works to influence the person they will become and the person upon which decisions regarding political obligation will be made.

In conclusion, although voluntarist theories of political obligation promote an important aspect of the question of political obligation, namely the role that consent plays within it, they are not a satisfactory answer to the question of political obligation. The major flaws in the voluntarist theory are that it rests on a circular argument regarding the prior agreement in society to keep one’s promises, does not accurately reflect the relationship between citizens and the state, and finally, does not accurately represent human nature and the influences the society into which one is born has on the decisions one makes.

2.3 Teleological Theories

Teleological theories of political obligation differ from voluntarist theories in so far as they do not focus on consent as the basis of morally justified political obligation. Teleological theories promote the idea that political obligation is morally justified through a goal, end or purpose the state is acting towards. According to this account political obligation is generated through the goal or end that the state is striving towards, and is morally justified through its instrumental purpose. Political obligation is morally justified through the purpose of the obligation, which is to allow the state to achieve the state of affairs society wishes. As Horton explains, “political obligation within teleological theories characteristically derives from a general requirement to act in a manner designed to bring about a particular state of affairs.”

(Horton 2010, 51) Teleological theories, therefore, are defined as consequentialist or purposive theories, meaning “the rightness of an action (or type of action), practice or institution is to be judged in terms of the value of what it brings about.” (Horton 2010, 51) Teleological theories of political obligation differ in the goals/purposes taken to morally justify political obligation to the state. Horton highlights two influential theories within this category of teleological theories, which are utilitarianism and the common good.

Utilitarianism is an ethical theory first developed by Jeremy Bentham, and then further developed by John Stuart Mill. Utilitarianism is an ethical theory which promotes the idea that the morally right action is the one which maximizes a certain desired end, usually identified as happiness or utility. Utilitarianism exists in two main forms, act and rule. Act-utilitarianism determines correct moral action by taking into account the circumstances present in every decision, and determining the action which will maximize the good for everyone affected. As Horton explains, act-utilitarianism “judges an action to be morally correct if it maximizes beneficial consequences, however such consequences are precisely defined. On this view, how a person ought to act in a given set of circumstances should be exclusively determined through a calculation of the likely general utility of the various courses of action available. And the act that is right that will have, given the best available knowledge, the largest net balance of beneficial consequences over harmful ones.” (Horton 2010, 56) Rule-utilitarianism differs in so far as it promotes the view that in order to determine correct moral action one ought to look to objective rules of morality, rather than assess the consequences which will result from a specific action under specific circumstances. As Horton explains, “rule-utilitarianism dictates that people should be guided in how to act by a general rule about the best way to act in circumstances that fall under the rule. The rules should be devised in the light of generalizations about what action, or which kind of action, in these sorts of circumstances, are most likely to maximize the beneficial consequences.” (Horton 2010, 57)

According to utilitarianism, therefore, political obligation is morally justified by the consequences the state seeks to promote. Political obligation is morally justified according to act-utilitarianism if obeying the law, in a particular set of circumstances, promotes the maximization of utility. The problem, however, is that since moral action in act-utilitarianism is determined by

the circumstances of the situation, obeying the law may not always promote the most utility. Act-utilitarianism, therefore, cannot provide a reliable answer to morally justify political obligation because correct moral action is determined respectively in every situation, and cannot provide a concrete answer which will always justify obeying the laws of a state. Rule-utilitarianism cannot remedy this error because the consequences of following a rule stating that it is always the correct moral action to obey the laws of the state may not always promote the most utility. Rule-utilitarianism, therefore, may be used to superficially morally justify political obligation by creating a rule stating that it is always morally right to obey the laws of the state, however this would betray the ultimate purpose of utilitarianism, which is to promote the most utility. A second problem with utilitarianism as a moral justification for political obligation is that it can often lead to morally problematic conclusions. One of the most powerful criticisms levelled against utilitarianism as an ethical system is that using it as a system to determine action can often lead to morally problematic outcomes. Utilitarianism focuses on the maximization of utility to direct all action. The only consideration in a utilitarian decision is which action will maximize utility, regardless of the methods that such an act might require. Take, for example, a surgeon who is operating on a sick patient. The patient needs surgery to cure their illness and it is likely that they will survive once it is completed. Once the surgery is underway the surgeon is faced with a moral decision. The surgeon could either perform the surgery on the patient and cure them, or kill the patient and use their organs to cure five other sick patients. If the surgeon is to use the act-utilitarian system to dictate their action, the correct moral decision might well be to kill the original patient in order to save the other five patients. This would be the correct moral decision according to the act-utilitarian system if the doctor would be maximizing utility by curing five people instead of just one. Although this example faces many objections from the proponents of utilitarianism, it suffices to illuminate the underlying problem facing utilitarianism, which is that using it as a system of ethics may permit morally dubious behaviour. Finally, the last criticism facing utilitarianism as a moral justification for political obligation is that it does not necessarily promote the ends we wish our state to strive towards. Although one of the most highly debated subjects in political philosophy is what ends/goals citizens wish their states to advance, it is reasonable to propose the idea that utilitarianism does not sufficiently promote the ends citizens wish from their states. One commonly accepted ideal concerning the purpose of a state is that it is meant to promote a state of affairs which facilitates a good quality

of life for all its citizens. This conflicts with the singular purposiveness of utilitarianism to maximize utility, which will not necessarily facilitate a better quality of life for all citizens when used as a political system. A state may seek to maximize utility for the rich, for example, by enslaving a population as labourers. This might promote the most utility, but would not reflect the true purpose for which the state was created.

The second teleological theory Horton mentions is the theory of political obligation morally justified by the common good. In this theory political obligation is morally justified by a state's striving towards a common good of the members of society. Political obligation, therefore, is morally justified as an instrumental tool in the facilitation of the common good of citizens. As Horton explains, the common good which morally justifies political obligation may be "either that of a particular community or of everybody." (Horton 2010, 69) The common good "is usually understood as a qualitative conception, including within it moral qualities that are regarded as intrinsically valuable, and does not consist solely of the maximization of desire-satisfaction, pleasure or happiness." (Horton 2010, 69) This idea of the common good, however, which grounds the moral justification of political obligation in this theory, is also its biggest point of controversy. As Horton explains, critics of common good theories object that it is (nearly) impossible to find a suitable conception of the common good which would serve to morally justify political obligation in a society. Contradictory views surround the question of what would count as a valid and legitimate common good, one important enough to morally justify political obligation. It is hard to know whether it would be possible to determine such a thing, or even exists.

In conclusion, both utilitarianism and common good theories fail to adequately provide a moral justification of political obligation within a teleological framework. Utilitarianism fails to provide a reliable explanation for political obligation, while common good theories are highly contestable.

2.4 Deontological Theories

The third category of theories of political obligation is deontological theory. Deontological theories morally justify political obligation based on duties within a moral system. In opposition to voluntarist or teleological theories, deontological theories morally justify political obligation based on the duties people have as moral agents. As Richard Norman describes it, “a deontological theory is one which asserts that at least some actions are right or wrong, and we have a duty or obligation to perform them or refrain from them, quite apart from considerations of consequences.” (Norman 1983, 132 as quoted in Horton 79) Deontological theories look to objective principles and values, and the corresponding duties they create, in order to determine right action. Horton identifies several versions of deontological theories, including: fairness theory, natural duty, gratitude and samaritanism. I will briefly explain each of these theories and why I believe they do not constitute satisfactory answers to the question of political obligation, except for Rawls’ theory of the natural duty to support just institutions. I will provide my arguments as to why I believe Rawls’ theory is the most satisfactory answer to the question of political obligation at the end of this chapter.

The first deontological theory of political obligation Horton identifies is fairness theory. According to this theory political obligation is morally justified based on the mutual relationship between members of a community, which create duties to obey the law as well as the right to expect the same submission from others. Horton quotes one of the founders of the fairness theory, H.L.A. Hart, at length to explain the theory more comprehensively.

“When any number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefitted by their submission. The rules may provide that officials should have the authority to enforce obedience and make further rules, and this will create a structure of legal rights and duties, but the moral obligation to obey the rules in such circumstances is *due to* the co-operating members of the society, and they have the correlative moral right to obedience. In social situations of this sort (of which political society is the most complex example) the obligation to obey

the rules is something distinct from whatever other moral reasons there may be for obedience in terms of good consequences (e.g. the prevention of suffering); the obligation is due to the co-operating members of the society as such and not because they are human beings on whom it would be wrong to inflict suffering.” (Hart 1967, 61-2 as quoted in Horton 87)

According to the fairness theory, because humans are born into social circumstances we automatically have an expectation that others will cooperate lawfully with us in order to facilitate a good quality of life, and therefore they have the right to similar cooperative lawfulness from us. There are several areas of contention within this theory, however, which undermine its effectiveness for answering the question of political obligation. The first problem is that it is not clear what would count as a “cooperative scheme” under this theory. The fairness theory promotes the conception that society is a cooperative scheme, working towards a certain end of mutual benefit (a peaceful and morally just society). This is not, however, an accurate depiction of what political life is like in society. Just because people happened to be members of the same society does not mean that they wish to promote the same ends as everyone else, or even regard themselves as political agents. The second area of contention within this theory is that it is not clear what circumstances would deem the cooperative scheme as fair or morally just. The fairness theory promotes the idea that citizens must work together in order to achieve mutual benefits, however it is very difficult to set out conditions which would render the cooperative scheme fair to everyone involved. There are different contested conceptions of justice in society. Finally, the third problem facing the fairness theory as an explanation of political obligation is that it is not clear what constitutes accepting a benefit. The fairness theory rests on the notion that it is morally just, when one receives a benefit, to repay the kindness or cooperativeness which has been shown. This means that according to the fairness theory, when an agent accepts the benefit of a peaceful, well-ordered society created by everyone obeying the laws, an obligation is created for them to reciprocate and obey the laws as well. The problem, however, is that what exactly constitutes accepting a benefit is a very controversial matter. Accepting a benefit may be merely enjoying the good it produces, such as enjoying a peaceful society simply by being a member of it. Alternatively, it may require that the person consciously wishes to accept the benefit. This point of controversy is an important complication in the fairness theory

because the acceptance of benefits and the corresponding obligations which are created as a result of this are the basis upon which the fairness theory rests.

The next theory within the deontological framework Horton touches on is natural duty. According to this theory political obligation is morally justified because of the divine right of rulers to dictate the laws of their state. This theory is primarily based in religious and theistic traditions, and therefore cannot provide a concrete and universally agreed upon moral justification for political obligation. As Horton explains, varying religions have different beliefs regarding divine command and religious doctrines of the divine right of rulers, and therefore “for those of a different religion or of no religion at all, in so far as that justification depends upon premises about the nature of God’s will or such like that are not shared, any particular religiously based account of natural law will lack general persuasiveness.” (Horton 2010, 97)

The gratitude theory of political obligation proposes the idea that citizens owe the state gratitude for raising them in a similar way to the gratitude we owe to our parents for raising us. According to this account we owe the state gratitude for providing the circumstances for us to be raised and educated and therefore we ought not to engage in actions which work against the will of the state. In other words, we ought not to disobey the laws. Citizens, therefore, have a morally justified political obligation to the state because of the gratitude they owe the state for raising them. This theory has several points of contention within it, the first being that it is not necessarily the case that agents have obligations or duties of gratitude. As Horton explains, “the gratitude account also seems potentially open to the objection to claims about duties arising from unsolicited benefits discussed in relation to fairness theory: must we be grateful for benefits that have been imposed upon us?” (Horton 2010, 97) In addition, gratitude is commonly described as a feeling in relation to a benefit received, but does not necessarily translate into a duty to compensate the person providing the benefit. The second point of contention within this theory is whether the state is a proper recipient of gratitude. Conflict arises over whether the state is a proper recipient of gratitude, or if it is even possible to show gratitude to non-persons such as the state.

The final theory Horton discusses in the section on deontological theories of political obligation is samaritanism. According to this theory, political obligation is morally justified by the fact that "...each of us is obligated to obey the just laws of a legitimate regime as her fair share of the communal samaritan chore of rescuing all of us from the perils of the state of nature." (Wellman and Simmons 2005, 89) Under this account people have a duty to aid themselves as well as others in society to get out of the state of nature through obedience to the laws of the state. Samaritanism proposes the idea that the state of nature is a horrible condition to live in and humans must do whatever is necessary to escape it. Since it is necessary for citizens to obey the laws in order to create a state with proper authority, agents have a morally justified political obligation to obey the laws in order to help rescue all in society from the state of nature. The problem with this theory, however, is that it bases the moral justification of political obligation on a false conception of the state of nature. It is unreasonable to think that the state of nature is so evil, and the conditions within it are so horrible, that it morally justifies taking away freedom and binding moral agents to obligations to the state. In addition, the duty of samaritanism, to aid those who are in extreme danger, is unusual and enforced only in extreme circumstances. It is unreasonable, therefore, to believe it is relevant to the dangers supposedly present in the state of nature. Such a duty of samaritanism, as well, cannot be used to morally justify a general theory of political obligation because the applicability conditions of samaritan duty involve states of emergency and unusual circumstances.

In conclusion, the deontological theories mentioned in this section do not provide satisfactory answers to the question of political obligation. The fairness theory involves too many indeterminate factors, natural duty is not a relevant moral justification for political obligation because there are too many different opinions of what it would entail, and it is not certain that we owe the state gratitude or it is a proper recipient of it. Finally, it is not certain that a samaritan duty is the right sort of thing to constitute a duty to help others in society escape the state of nature.

2.5 Associative Theories

In his book *Political Obligation* Horton promotes the conclusion that associative accounts are the most satisfactory answer to the question of political obligation. Associative theories morally justify political obligation through social practices in society which give rise to an obligation to obey the law. According to these theories political obligation is owed to the members of one's society as opposed to the state. Obligation to obey the law is owed to the other members of society in so far as all members have a duty to engage in their part to keep society peaceful and just. Associative theories base their ideas on the belief that one can inherit obligations and that these obligations are valid. Political obligation is morally justified by the fact that humans live in society with others people, and this situation is a relevant moral consideration. According to associative theories people have obligations to their fellow-citizens to obey the law based on "the special responsibilities social practice attaches to membership in some biological or social group, like the responsibilities of family, friends or neighbours" (Horton 2010, 146) Samuel Scheffler describes the underlying ideals in associative theories in these terms:

"...ordinary moral opinion...continues to see associative duties as central components of moral experience. In so doing, it recognizes some claims upon us whose source lies neither in our own choices nor in the needs of others, but rather in the complex and constantly evolving constellation of social and historical relations into which we enter the moment we are born. For we are, after all, born to parents we did not choose at a time we did not choose; and we land in some region we did not choose of a social world we did not choose. And, from the moment of our birth and sometimes sooner, claims are made on us and for us and to us....And if, in due course, we inject our own wills into this mix-straining against some ties and enhancing others, sometimes severing old bonds and acquiring new ones- the verdict of common moral opinion seems to be that we can never wipe the slate entirely clean. Our specific historical and social identities, as they develop and evolve over time, continue to call forth claims with which we must reckon, claims that cannot without distortion be construed as contractual in character, and which are not reduced to silence by general considerations of need." (Scheffler 2001, 64)

Associative theories face several criticisms. However, the most powerful levelled against them is that they do not accurately characterize the relationship between members of a state. Although, as Scheffler observes, interaction between citizens is a prominent feature of the daily moral landscape for citizens, it is not sufficient to base moral obligations to the state upon. Although we are born into social circumstances, to a community we did not choose, this does not lead to the arbitrary imposition of obligation to this community. Due to the circumstances of necessity wherein humans must live in social communities, it is correct to observe that in some instances we do have a minimal duty to act in a way that respects the freedom and autonomy of fellow-citizens. Where associative theories make their most serious error, however, is where they overextend this minimal obligation to a moral justification of political obligation. Associative theories promote the idea that political obligation is generated by one's membership of a state, however, what being a member of a state entails is a major point of controversy. Finally, a problem with associative accounts of political obligation is that they base political obligation on arbitrary circumstances. Associative theories promote the idea that it is just to obey the law of the state one is a member of, in order to uphold one's obligation to fellow-citizens to keep the state peaceful and morally just for all. The problem, however, is that it is very difficult to give a definitive stipulation of the nature of the state and the nature of the people in the state, ought to be in order to generate citizenship obligations. For example, according to associative theories, a man born into a racist state has an obligation to the members of that state to obey the law.

In conclusion, although I believe that associative theories have cast light on an important issue in the question of political obligation - namely, to whom obligation is owed - I do not believe it is a satisfactory answer to the question of political obligation. I believe that associative theories fail when they base the entirety of political obligation on the obligation one has to fellow-citizens because I do not believe this is an accurate representation of the relationship between citizens of a state. A person's morality is not based solely on the needs of others in society, although this consideration will play a crucial role in many moral decisions, and therefore an account of political obligation cannot rest on this assumption. Associative theories, therefore, overextend the obligation agents in a state have to each other and incorrectly use it as a moral justification for political obligation when it is insufficient to support such a moral dictate.

2.6 Natural Duty to Support Just Institutions

In this section I will set out my conclusion that the most satisfactory answer to the question of political obligation is John Rawls' theory of the natural duty to support just institutions. In *A Theory of Justice* Rawls advances a theory of the most just way to run a state based on two principles of justice. These principles are that "first: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all." (Rawls 1971, 53) In Rawls' theory these principles of justice would be decided upon by agents in the original position, from behind the veil of ignorance. The original position is a theoretical situation Rawls creates in which an agent is in a position of decision before the state is created, and is about to decide the principles according to which the state will be governed. The agent in the original position is behind a veil of ignorance, meaning they do not know what position they will be entering into within the new state. They do not know what economic position they will hold, their age, race, health, social standing or any other factors that would influence their decision regarding which principles will direct society and bias them to advocate for a state of affairs which favours their position. As Rawls explains,

"...it seems reasonable to suppose that the parties in the original position are equal. That is, all have the same rights in the procedure for choosing principles; each can make proposals, submit reasons for their acceptance, and so on. Obviously the purpose of these conditions is to represent equality between human beings as moral persons, as creatures having a conception of their good and capable of a sense of justice." (Rawls 1971, 17)

Rawls believes that agents in the original position would choose his two principle of justice as the most satisfactory principles to run the new state in a morally just manner, and this legitimates his political theory. Rawls states, "it is clear, then, that I want to say that one conception of justice is more reasonable than another, or justifiable with respect to it, if rational persons in the initial situation would choose its principles over those of the other for the role of justice." (Rawls 1971, 16)

In *A Theory of Justice* Rawls lays out his argument for the principles of justice he believes would facilitate the most morally just ordering of a state, however he must also provide a moral justification as to why citizens have an obligation to the state once it is created. Rawls provides a deontological answer to the question of political obligation, arguing that humans have a natural duty to support morally just institutions, which morally justifies citizen's obligation to just states. Rawls' theory of political obligation is based on the belief that human beings have special natural duties by virtue of our being autonomous, rational agents, and "from the standpoint of the theory of justice, the most important natural duty is that to support and to further just institutions." (Rawls 1971, 293) This duty to support just institutions has two parts: "first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves." (Rawls 1971, 293) Rawls proposes that this natural duty is the best and most appropriate way to morally justify political obligation and would be chosen by a person in the original position. As he explains, "...the parties in the original position do best when they acknowledge the natural duty of justice. Given the value of a public and effective sense of justice, it is important that the principle defining the duties of individuals be simple and clear, and that it insure the stability of just arrangements." (Rawls 1971, 296) Rawls proposes that recognizing the natural duty humans have to support just institutions is the best way of morally justifying political obligation because it creates the conditions under which everyone is obliged to do their part (obey the laws) in order to promote universally valuable goods, in this case peace and justice. Since every (reasonable) person in a state accepts that peace and justice are good conditions for a state to be in, it is logical and therefore incontrovertible that the natural duty to support just institutions is, "from the standpoint of the theory of justice,...[a] fundamental requirement for individuals." (Rawls 1971, 296) According to Rawls' theory, therefore, political obligation exists and is morally justified in any state which can be deemed morally just by a person of reason.

One problem with Rawls' duty to support just institutions is that, although it provides a moral justification of political obligation in states which are just, it does not specify what the state of one's political obligation ought to be in states which are unjust. Rawls' duty extends to

just and nearly just states, however this leaves room for controversy. Firstly, it is not specified within Rawls' theory what qualifies as a "nearly" just state. At what point does a just state become slightly unjust ("nearly just"), and even more critically, when does a nearly just state become an unjust state? Rawls claims that his theory operates in just or nearly just states, however, this leaves unspecified what the state of one's political obligation ought to be if a state were unjust. Although it seems obvious that it is wrong to support unjust states, Horton notes that due to the problematic moral nature of the real world, this is not always the case. He notes that, although a state may be unjust, its existence may still be a preferable situation for its citizens over life in the state of nature. As he explains, "...undeniably, there are some institutions so seriously unjust that there is no decent alternative to a thoroughgoing opposition to them...However, there is injustice and yet worse injustice. As the best is the enemy of the good, so the worst is the enemy of the bad." (Horton 2010, 104) Horton promotes the idea that sometimes an unjust regime can be less harmful than a state of nature without any political authority. Rawls gives no account of one's political obligation to an unjust state, and therefore the conclusion which must be drawn is that he would advocate that one does not have political obligation to these regimes, but rather one's political obligation is shifted towards others in society. Because Rawls does not provide an account of this matter one can only make an educated guess at the moral solution he would have proposed to situations such as this. I propose that the correct way to interpret Rawls' theory is as follows. One has morally justified political obligation to a state which is unjust up until the point wherein the state engages in actions so evil that one can no longer morally justify obligation. At this point I do not believe that Rawls would abandon entirely the idea that citizens have political obligation. Rather, it would be redirected to constitute obligation to one's fellow citizens. In his political theory Rawls places much emphasis on the importance of society running in a structured, morally just way, which facilitates a good quality of life for those within it. Rawls' theory of political obligation applies to both just and nearly just states, illuminating his belief that even if a state is not entirely just (nearly just) it still deserves obligation from its citizens. Rawls believes this because he places great importance on the role of sound political structures to facilitate an acceptable state of affairs for its citizens. Rawls believes that the political structures in society serve an important role in the peaceful operation of the state, and therefore if the state is nearly just it deserves obligation by virtue of its role in the orderly running of society. When the state, however, becomes too insurmountably evil

to be a morally justified recipient of political obligation I believe Rawls would advocate that citizens ought to redirect their obligation to other citizens in their society. Rawls would advocate that although citizens no longer have an obligation to the laws of an excessively unjust state, they do have an obligation to each other to keep society peaceful and morally just. In these state of affairs citizens would be obligated to act in a manner which respects the life, liberty and property of those around them, in the attempt to reproduce a model of political organization which protects the rights of all. Rawls would propose this shift in obligation because he focuses on the principles of justice and fairness as fundamental in his theory of how a state ought to run, and therefore if the state is no longer just, it is the obligation of citizens to remain civil and morally just to all in society.

In order to illustrate the theoretical shift in the political obligation of citizens which would occur if a nearly just state converted into an unjust state I will propose a hypothetical situation based on extrapolations from the circumstances of the real world. Take as an example the politician Donald Trump as he promises to be, or someone very much like him. A reasonable agent can argue that at this point in history the United States is at a point where, although injustice from the state does occur, the state can be considered nearly just. If Trump were, however, to win a future election and become the President of the United States I believe that this would eventually bring about a shift in the morality of the American state from nearly just to unjust. Focusing on the specific topic of racism in America there have been many incidents in recent history involving excessive violence and force used by American police officers. The consequences of these incidents are very tragic. The cause of these instances, however, can be theorized as either corrupt/racist individual officers or failings on the part of the criminal justice system itself. In this circumstance although the state engages in very serious moral wrongdoings, the state itself is not the direct cause of these injustices as much as the personal biases of agents. Because these incidents of wrongdoing are isolated events stemming from personal failings the state itself can be seen as nearly just (although it is still held accountable for the facilitation of these events even though they did not directly facilitate them) and citizens' political obligation to the state therefore remains intact. Although the state engages in injustices it remains effective at running the state and facilitating an effective and peaceful society, and this benefit the state provides is a morally relevant consideration to the political obligation of citizens. Rawls would

argue that since the state is efficacious at facilitating peace the political obligation of citizens to the state remains valid, however only until the point wherein the state violates the rights necessary for a good quality of life for citizens with dignity. If a figure like Trump were to be elected into office, however, I argue that the American state would no longer be nearly just, but would rather become an unjust state. I argue that if a Trump-like figure is elected into office the state will become unjust because racism and racist practices will be introduced into the constitution and actively promulgated by the state. (Kendall, 2016) A state introducing racism into their structural foundations and practices constitutes a serious and severe harm which undermines the ability for citizens to live a good quality of life with dignity. When a state violates the rights necessary for citizens to live good quality lives with dignity, Rawls, I believe, would advocate that citizens ought not pledge their political obligation to the state. Rawls, however, would not advocate that citizens turn to anarchy and chaos in lieu of the direction of the state, but rather that agents ought to direct their political obligation to their fellow citizens instead. The most plausible Rawlsian position here is that, although the state is no longer a proper recipient of political obligation, citizens' obligations ought to be turned instead towards other citizens within society in the joint venture of all to cooperatively act in a way to facilitate peace. A Rawlsian could plausibly argue that once a state becomes unjust citizens are then obligated to continue to support peace and just arrangements within society because they owe this behaviour to other citizens, as they necessarily live in a society with others and must therefore act in a way that is just to them.

I believe that Rawls' duty to support just institutions is the most satisfactory answer to the question of political obligation for two reasons. Firstly, Rawls provides a theory morally justifying political obligation which does not bind citizens irrevocably to the state. Rawls' duty extends to just or nearly just states, however does not outwardly support obligation to an unjust state. I believe this is a very important requirement for a satisfactory theory of political obligation because if obligation were based on circumstances other than the morality of the state, it could lead to problematic conclusions. If a theory of political obligation is not based on the moral nature of the state and whether it deserves obligation from its citizens (if it is just), then theories of political obligation would support having an obligation to an unjust state. This is not an acceptable outcome because it promotes the idea that citizens would be bound in these

circumstances to facilitate an immoral state of affairs. Although the question of why agents participate in political states it is a highly contested matter, one reasonable answer is that agents participate in the facilitation of the state because it promotes a better state of affairs than if the state's authority were not present, such as in the state of nature. Although this may not be the reason grounding every agent's participation in the state, or sufficient to explain the reason citizens create states in the first place, it can be reasonably accepted as one very plausible underlying consideration. To allow a theory of political obligation to propose support for an unjust state, therefore, is illogical and contrary to the purpose for which it was originally created. Rawls' theory of the natural duty to support just institutions, therefore, is a satisfactory answer to the question of political obligation in so far as it proposes obligation to just or nearly just states based on whether the state morally deserves obligation.

The second reason I believe Rawls' theory is the most satisfactory answer to the question of political obligation is that it resonates with the intuition that it is right to promote a morally just state of affairs. Rawls' theory rests on the natural duty within humans to support a morally just state, which reflects the human tendency to support good states of affairs. Although it is difficult to describe explicitly, it is a reasonable human reaction to, upon looking at a just state, instinctively feel that it is morally right to support it. Although the just state may not order affairs exactly how various individuals would prefer, or it supports certain values that not everyone agrees with, if a state promotes an overall morally just state of affairs, it is intuitive that it would be morally wrong to oppose it. I believe this intuitive feeling within citizens that they ought to support a just state of affairs is important to the effectiveness of Rawls' theory. Rawls places much emphasis on the idea that even if a state is not entirely just, it is important by virtue of its role in ordering and running society in a peaceful manner. The intuition, therefore, which promotes the view that it is right to support just institutions and structures gives clout to Rawls' theory of political obligation because not only is it logically correct to support morally just institutions, but it feels intuitively correct as well. I believe Rawls' theory of political obligation is the most satisfactory because it illuminates the underlying beliefs and feelings which can reasonably be said to constitute human nature in relation to the state (that it is wrong to oppose a state promoting a just state of affairs), and which ought to be identified and respected as valid components of the moral groundwork of human beings.

Chapter 3

3.1 Comparing Definitions of Civil Disobedience

In his 1971 work *A Theory of Justice* Rawls proposes a definition of civil disobedience as a “public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government.” (Rawls 1971, 320) Rawls prefaces this definition with the disclosure that his definition of civil disobedience is only meant to be applied to morally just or nearly just states which are rooted in democratic political practices. As he explains, “this theory is designed only for the special case of a nearly just society, one that is well-ordered for the most part but in which some serious violations of justice nevertheless do occur. Since I assume that a state of near justice requires a democratic regime, the theory concerns the role and the appropriateness of civil disobedience to legitimately established democratic authority.” (Rawls 1971, 319) Rawls’ definition of civil disobedience is meant to be applied in (reasonably) just political climates with the intent to be used as a tool for supporting and correcting the already established democratic structures of the state. As Rawls professes, “(i)t should also be noted that civil disobedience is a political act not only in the sense that it is addressed to the majority that holds political power, but also because it is an act guided and justified by political principles, that is, by the principles of justice which regulate the constitution and social institutions generally. In justifying civil disobedience one does not appeal to principles of personal morality or to religious doctrines...” (Rawls 1971, 321) Rawls’ definition is too narrow to be a viable definition of civil disobedience in the greater sense in so far as it cannot be applied to similar activity around the world which occurs under different political conditions. Rawls links his definition of civil disobedience directly to democracy and the advancement of the democratic process. Rawls believes that civil disobedience is a tool used to help members of society fix problems in the democratic political structure which rules over them and as an instrument to help expose injustice. Rawls’ definition places emphasis on the moral importance of exposing the wrongdoing of a state to society, which is why he places such concern on the idea that civil disobedience must be public and done in an attempt to bring about a change in the law or policy creating the wrongdoing (that the act is communicative). I think Rawls’ definition of civil disobedience is insufficient because it is too narrow in its account of

the purposes of civil disobedience. One fundamental problem with Rawls' definition is that it applies only to morally just or nearly just states, which Rawls identifies as only possible if they are democratic, and therefore leads to civil disobedience being used as an instrument to support and correct democratic practices that lead to wrongdoing, instead of being aimed at correcting or appropriately addressing the wrongdoing itself.

My definition of civil disobedience differs from Rawls' in so far as I believe the only prerequisite necessary for an act of civil disobedience to be identified as such is that the act is conscientious, meaning the act is engaged in for the primary purpose of correcting or appropriately addressing a moral wrongdoing the state is perpetrating. Conscientiousness defined within the context of my theory of civil disobedience is the genuine belief that one ought to engage in certain action(s) (acts of civil disobedience) in order to correct/appropriately address a moral wrongdoing. Conscientiousness constitutes a genuine motivation for the agent of civil disobedience. My standing definition of civil disobedience, therefore, is that civil disobedience is a conscientiously motivated breaking of the law in the attempt to correct or appropriately address a moral wrongdoing of the state. My definition of civil disobedience is a categorical definition and has no bearing on whether the act is morally justified. According to my theory an agent of civil disobedience is motivated to correct/address a moral wrongdoing of the state and turns to civil disobedience when they do not have alternate routes of action available or the ones they do are unsatisfactory. According to my definition of civil disobedience the act requires that the agent is conscientious, meaning they are motivated primarily in the aim of correcting or appropriately addressing a moral wrongdoing of the state. In contrast to Rawls' definition, however, I believe that publicity and non-violence are not necessary to define an act of civil disobedience as such, and it is not required that the act be directed at changing the policies/laws.

My definition of civil disobedience spans civil disobedience engaged in by individual agents as well as group collectives. Group collectives in this thesis will refer to a group of people working in collaboration to produce a specific end, which, in the context of my theory, would be correcting or appropriately addressing the wrongdoing of the state. "The notion of *collective responsibility*, like that of *personal responsibility* and *shared responsibility*, refers to both the causal responsibility of moral agents for harm in the world and the blameworthiness that we

ascribe to them for having caused such harm.” (Smiley, 2005) Group collectives “associate both causal responsibility and blameworthiness with *groups* and locate the source of moral responsibility in the collective actions taken by these groups understood as *collectives*.” (Smiley, 2005) Although my definition allows for civil disobedience to be executed by both individual agents and group collectives, acts of civil disobedience engaged in by collectives must be constrained so that their action still fits within the specifications for moral justifiability described in chapter one. Group collectives, by virtue of their greater numbers of agents, have more power to incite the change they desire and therefore must take this fact into consideration when they are determining action. An act of civil disobedience, when engaged in by a group collective, must remain significantly less harmful than the wrongdoing they are attempting to correct/appropriately address. Acts of civil disobedience, therefore, may be engaged in by group collectives, but the force behind the act must be tempered to remain eligible to be morally justifiable.

My definition of civil disobedience does not include the stipulations of publicity, nonviolence and communication Rawls’ contains because I believe the main objective which ought to drive a civil disobedient, and which must be reflected in the definition, is to correct or appropriately address a moral wrongdoing of the state. Rawls, alternatively, regards civil disobedience as a tool for democratic repair and social awareness, with the correcting/addressing of the moral wrongdoing being an indirect result of the repairs to the democratic practices of the state. I believe my definition of civil disobedience is superior to Rawls’ and offer three arguments for this claim: 1) the argument from misdirection; 2) the argument from scope; 3) the argument from effectiveness. Briefly, the argument from misdirection contends that Rawls misdirects the moral intention of acts of civil disobedience towards political systems of justice, as opposed to towards specific wrongdoings. This degrades the plight of a victim of wrongdoing from the state by elevating the importance of fixing the political system over affording the victim the dignity they deserve. The argument from scope identifies the narrowness of the applicability of Rawls’ definition of civil disobedience as a serious failing which renders his theory incapable of identifying civil disobedience in the various forms it may take. Finally, the argument from effectiveness contends that my theory of civil disobedience describes a process that more effectively improves society. My theory of civil disobedience places emphasis on the

correction/addressing of individual wrongs suffered by members of society (as well as sentient creatures and the environment), at the hands of the state, and therefore creates a more proactive atmosphere in society wherein citizens are empowered to correct/address injustices where they exist, as opposed to having to battle against the system which is imposing them.

In the rest of this chapter I will examine the components of Rawls' definition of civil disobedience which I do not believe are necessary to define an act of civil disobedience: publicity, nonviolence and communication, in order to provide an explanation of why my definition differs from them. I will then elaborate my arguments from misdirection, scope and effectiveness to defend my theory over Rawls' theory.

3.2 Publicity

One of the main components of Rawls' definition of civil disobedience is that the act must be a public event. As Rawls states, "...civil disobedience is a public act. Not only is it addressed to public principles, it is done in public. It is engaged in openly with fair notice; it is not covert or secretive. One may compare it to public speech, and being a form of address, an expression of profound and conscientious political conviction, it takes place in the public forum." (Rawls 1971, 321) This stipulation of publicity requires that an agent of civil disobedience, regardless of the specific act they will engage in, display their act of civil disobedience to the rest of society. The act must be public, meaning that citizens may watch the event, and information regarding the act cannot remain confidential. According to Rawls' definition, civil disobedience cannot take the form of private, hidden acts, but rather must be made accessible to society. Rawls includes the requirement of publicity within his definition of civil disobedience because of the importance he places on fairness and justice within society. Rawls argues that by acting according to his definition of civil disobedience one, "addresses the sense of justice of the majority of the community and declares that in one's considered opinion the principles of social cooperation among free and equal men are not being respected." (Rawls 1971, 320) Rawls labels his political philosophy 'justice as fairness' which illustrates the fundamental importance of society operating in a manner which is fair to all, and which treats all citizens as dignified human beings deserving of the primary social goods all require for a good

quality of life. As Rawls states in his first principle, “(f)irst: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.” (Rawls 1971, 53) This striving to create a society in which each person is granted dignity and respect equal to their fellow citizens illuminates Rawls’ belief that society ought to work together in order to facilitate justice and fairness. This idea is alluded to within Rawls’ second principle, when he states that “social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.” (Rawls 1971, 53) Rawls explains further.

“The second principle applies, in the first approximation, to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility. While the distribution of wealth and income need not be equal, it must be to everyone’s advantage, and at the same time, positions of authority and responsibility must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities so that everyone benefits. ...For the present, it should be observed that these principles are a special case of a more general conception of justice that can be expressed as follows. All social values—liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage.” (Rawls 1971, 53-54)

The function of civil disobedience according to Rawls, therefore, is to help repair and strengthen the political structures which exist in society, and which (in just or nearly just states) facilitate adequate justice in order to deserve obligation from their citizens. To repair the system of justice as opposed to correct/address individual wrongs is imperative for Rawls because of the importance he places on society working together in order to facilitate justice. Civil disobedience, therefore, according to Rawls, must be a public event because the aim of civil disobedience is to help correct the structure of society. In order to allot each person the dignity they deserve as members of society, a civil disobedient is obligated to share information concerning the wrongdoing of the state, and how they plan on combating it, because the basic justice condition of society affects everyone who is a member of it and therefore all have a right

to know when it morally fails. A civil disobedient, according to Rawls' definition, does not engage in an act of civil disobedience in an attempt to correct or appropriately address a specific wrongdoing, but rather aims at correcting the system of justice which has failed. Since this political system is a good which applies to all and affects the lives of all its citizens, according to Rawls, civil disobedience against the state is a public matter and cannot be kept secret from its members.

My definition of civil disobedience states that an act of civil disobedience is a conscientiously motivated breaking of the law in the attempt to correct or appropriately address a moral wrongdoing of the state. The requirement of publicity Rawls includes in his definition of civil disobedience is not present in my definition, the primary reason for which is that my conception regarding the aim at which civil disobedience ought to be directed differs from Rawls'. While Rawls uses civil disobedience as a method for correcting the political system perpetrating the wrongdoing, my position is that civil disobedience is a method used by citizens to correct or appropriately address specific wrongdoings of the state. Civil disobedience, according to my definition, is a personal matter involving an agent conscientiously deciding that a wrongdoing perpetrated by the state is so severe that they decide they want to correct/address it. The decision to engage in civil disobedience is a private matter between the agent of civil disobedience and the victim(s) of the wrongdoing. Civil disobedience, in this regard, does not require that the act become a public event because the act itself is not a public matter. While Rawls views civil disobedience as a tool used by society in order to fix their collective political system, my position is that civil disobedience is not a matter of the political structure of society, but rather concerns correcting/addressing the specific wrongdoings that the system either intentionally or inadvertently produces.

Rawls includes in his definition of civil disobedience that an agent must be prepared to accept the consequences of their illegal action, showing their respect and submission to the state. As Rawls explains, "(t)his fidelity to law helps to establish to the majority that the act is indeed politically conscientious and sincere, and that it is intended to address the public's sense of justice." (Rawls 1971, 322) Rawls elaborates that, "[a] militant may try to evade the penalty, since he is not prepared to accept the legal consequences of his violation of the law; this would

not only be to play into the hands of forces that he believes cannot be trusted, but also to express a recognition of the legitimacy of the constitution to which he is opposed.” (Rawls 1971, 323) Rawls believes that agents of civil disobedience must be prepared to accept responsibility if they are caught in their act because to evade arrest would be to publicly deny the authority of the state. This law breaking has the effect of weakening the overall sense of fidelity to the rule of law. According to Rawls, if an agent of civil disobedience were to refuse to accept responsibility for their illegal actions this would threaten a widespread weakening of citizens’ sense of allegiance to the rule of law. For a civil disobedient to evade arrest, therefore, would promote an erroneous shift in citizens’ attitudes towards the authority of the state, instead of succeeding in changing the laws/policies the act of civil disobedience is aimed at exposing. While Rawls believes that civil disobedients must accept legal punishment for their actions as a result of pragmatic reasons concerning its effect on attitudes towards legal authority, Berel Lang (Lang, 1970) believes that agents of civil disobedience must accept responsibility for their illegal acts of civil disobedience because to act otherwise would be illogical. Lang argues that agents of civil disobedience engage in acts of civil disobedience because they are conscientiously motivated to oppose and attempt to change the policy/law they view as promulgating a serious moral wrong. Agents of civil disobedience protest the injustice of a specific law or policy, not the legal system as an institution, and therefore when they break laws in an attempt to incite moral change they ought to be punished for any illegal action they take. Because the political system (in this case) is reasonably just the civil disobedient has no moral justification for breaking laws which others accept to be reasonably just. As Lang explains, “(t)he "civil" in "civil disobedience" is construed here to designate the willingness to accept the sovereignty *in general* of the law which is *in particular* disputed.” (Lang 1970, 157)

My view of civil disobedience differs in this respect from Rawls’ and Lang’ theories. According to my definition of civil disobedience, being prepared to accept responsibility for one’s actions is not required to define an act of civil disobedience as such. I differ from Rawls’ opinion on this issue for reasons that parallel my disagreement with the requirement of publicity within an act of civil disobedience. While Rawls believe acts of civil disobedience are engaged in for the purpose of exposing wrongdoings under the existing political structure and to help facilitate justice for all citizens under its rule, I believe that civil disobedience is perpetrated with

the intent of correcting or appropriately addressing an individual wrongdoing. The aim of civil disobedience, according to my definition, is not a public matter, nor one which is aimed at the reformation of the political system of the state. The requirement for an agent of civil disobedience to be prepared to accept responsibility for their actions, therefore, is not relevant in my theory since the nature of the act is privately morally motivated and in response to wrongdoing suffered in a specific instance. The act is not directed to the public, nor is it engaged in to correct the existing political structure, therefore being prepared to be held liable to the state's punishment is not a requirement for an act of civil disobedience. Furthermore, since an act of civil disobedience, according to my definition, is not a public matter which must be shared with society, an agent of civil disobedience has no obligation to promote a demeanour of fidelity to the law in order to protect respect for the rule of law. When an act of civil disobedience is morally justified, it might seem that the state ought to not punish the act. It is a justified and conscientious attempt to correct the state's wrongdoing. As Kimberley Brownlee expresses the point, "(w)hen a disobedient is [morally] justified in her conduct, censure of that conduct would seem to be underserved and punishment unjustified." (Brownlee 2006, 187) Since an agent of civil disobedience breaks the law in an attempt to correct/address a serious wrongdoing, they ought not to be punished for the means they were forced to take (within the constraints on action required for its justification – something I discussed in chapter one) in order to correct/address it. I believe that since agents of civil disobedience are driven to action through the desire to correct/address a serious moral wrongdoing of the state, as a consequence of the state facilitating a severe wrongdoing, if a civil disobedient is forced to take illegal action to correct/address the wrongdoing, they should not be punished for doing so because it is the wrongdoing of the state which is driving their action. It is unjust, therefore, for the state to prosecute persons who are acting in a morally justified manner through civil disobedience.

According to my definition of civil disobedience, therefore, an act of civil disobedience is not required to be a public event. In opposition to Rawls my definition of civil disobedience promotes the view that civil disobedience is a private, personal matter of moral importance to both the agent of civil disobedience and the victim(s), in an attempt to correct/address a specific wrongdoing, and therefore does not necessitate that the act be a public matter.

3.3 Nonviolence

Rawls' definition of civil disobedience stipulates that an act of civil disobedience must be nonviolent. Rawls provides two reasons why engaging in "violent acts likely to injure and to hurt is incompatible with civil disobedience as a mode of address." (Rawls 1971, 321) The first reason is that acts of civil disobedience, "[must try] try to avoid the use of violence, especially against persons, not from the abhorrence of the use of force in principle, but because it is a final expression of one's case." (Rawls 1971, 321) Engaging in violence during acts of civil disobedience corrupts the appearance of one's act and works to undermine the effectiveness of the act as a tool for the political change for which it was originally intended. Rawls promotes the idea that civil disobedience is incompatible with the use of violence because of his view of the underlying reason for civil disobedience, which is the correction of the democratic processes within society and through this practice, the correction of moral wrongs within society. Since civil disobedience is engaged in for the benefit of all within society, "any interference with the civil liberties of others tends to obscure the civilly disobedient quality of one's act." (Rawls 1971, 321) In this regard Rawls conveys his belief that since the objective of civil disobedience is to protect society and its members in a cooperative manner, violence would alter the nature of the action in so far as it would no longer qualify as an act of civil disobedience according to Rawls' definition.

Rawls provides a second reason why violence can never be morally justifiably included within acts of civil disobedience. Rawls argues that a nonviolent act of civil disobedience, "expresses disobedience to law within the limits of fidelity to law, although it is at the outer edge thereof. The law is broken, but fidelity to law is expressed by the public and nonviolent nature of the act, by the willingness to accept the legal consequences of one's conduct." (Rawls 1971, 322) Rawls believes that nonviolence is an indispensable aspect of civil disobedience not only because civil disobedience is engaged in for the protection of society and therefore harming citizens in its pursuit would be illogical, but because it establishes reasonable constraints on action within civil disobedience. Nonviolent civil disobedience is morally justified, according to Rawls, because there are limits on the forms it may take and this promotes trust in the morally righteous objective of the civil disobedient. Rawls claims that constraints such as publicity,

nonviolence and communication play a crucial role in not only justifying civil disobedience morally, but facilitating its effectiveness as well. If a civil disobedient engages in an act of civil disobedience in line with Rawls' definition, those around them in society, as well as the state, can be assured that the agent will not be engaging in actions of a certain severity (in this instance will be prevented from using violence). As Rawls explains, "(w)e must pay a certain price to convince others that our actions have, in our carefully considered view, a sufficient moral basis in the political convictions of the community." (Rawls 1971, 322) The restrictions on action within Rawls' definition of civil disobedience creates a regulated form of civil disobedience, which both individuals within the community and the state can acknowledge as a controlled form of protest which will not engage in violent action. The community and state, therefore, can be assured that acts of civil disobedience will be directed towards the moral goal of correcting wrongdoing in the structures of the state, as well as remain confident that the agent will not engage in behaviour which would comprise of violence against other citizens or promote violence in future comparable events.

I disagree with Rawls on this matter. I do not believe nonviolence is a necessary component of civil disobedience. My definition of civil disobedience posits conscientiousness as the sole qualification to define an act of civil disobedience as such. Civil disobedience, according to my definition, is a conscientious act engaged in by a civil disobedient with the aim of correcting or appropriately addressing a wrongdoing of the state. The purpose of an act of civil disobedience, therefore, is to correct/appropriately address a specific wrongdoing, as opposed to attempting to fix the political structure facilitating it (as Rawls believes). My definition of civil disobedience allows for violence, therefore, because the purpose towards which I believe civil disobedience ought to be directed is not to promote a correction of the political structure of society in an attempt to further justice for all citizens, but is rather to correct/address a specific wrongdoing exacted by the state and facilitate justice for the victim(s) of the wrongdoing. I refer to violence in this thesis as any form of *prima facie* unjustified significant harm to a person's mental or physical being. I want to note once again at this point that the ordinarily immoral action which is morally justified in cases of civil disobedience must be significantly outweighed by the harm of the wrongdoing the agent is attempting to correct/address. The aim of civil disobedience according to my definition is to correct or appropriately address specific

wrongdoings, rather than the political structure overall, which changes the nature of the action from a public to a private event. The civil disobedient, according to my definition, is not bound by requirements of nonviolence and this changes the limitations placed on the agent's action. Since the agent is not engaging in civil disobedience for the protection and betterment of all in society, they are not obligated to refrain from inflicting violence when it is required.

I believe that civil disobedience can morally justifiably include violence not only because my definitions allows for it within the purposes for which it (civil disobedience) is engaged, but also because there are certain situations in which violence must necessarily be used to achieve one's goal. There are certain wrongs which can only be addressed through the use of violence. An example of a situation such as this would be a ruthless dictator in charge of running a state. In this situation, if the state (dictator) is engaging in such severe wrongdoing that agents decide they must civilly disobey in order to correct/address the wronging, then their course of action is limited as to which acts would be effective at inciting this correction. If the dictator in question is of an evil character, who will do everything in their power to continue their heinous arrangements, it can be argued that only certain action would work to cease the wrongdoing of the state. Nonviolent methods in this case, such as publicizing the wrongdoing of the state or attempting to sabotage political plans, would not be effective at facilitating the correction of the wrongdoing the civil disobedient regards as morally essential. In situations such as these, where the evil of the state is such that nonviolent methods of opposition (nonviolent civil disobedience) would fail at facilitating justice, there are limited avenues of recourse available. In cases such as these I advocate that violent methods can be used to either injure the dictator enough that they are unable to continue promulgating their wrongdoing, or the civil disobedient may have to kill them. The dictator, in this situation, could be reasonably expected to, if they were thrown in jail or exiled to another state, be intent on continuing to pursue and impose their evil agenda. In these cases, therefore, where the hands of a civil disobedient are bound by necessity and the constraints of the real world, civil disobedience can morally justifiably include violence in order to achieve the fulfillment of its goals.

Although I advocate violence as an acceptable component of civil disobedience I propose extremely stringent specifications as to when it can be morally justifiably used. Violence is not to

be regarded as a normal occurrence within civil disobedience, but rather only to be used in the face of an existential threat to society. In this respect, violence within civil disobedience can only be used when the threat (wrongdoing) promulgated by the state is so severe that it threatens to destroy the current way of life of its citizens, or society as a whole. In response to these types of cataclysmic threats, in which society itself would be undermined or radically diminished if no action is taken, is it morally justifiable to use violence within civil disobedience. Violence must be used as a last resort when all other reasonable legal and nonviolent avenues of recourse have been attempted, and the amount of force exercised when it is engaged in must be strictly tempered. The civil disobedient must use the minimum amount of violence necessary to stop the wrongdoing, with the use of murder being a last resort. The civil disobedient must not only use the minimum amount of violence possible, but also must cease their violent action immediately once they succeed at correcting the wrongdoing. Violence, therefore, can be morally justified within civil disobedience but only within strict limitations and used in cases of circumstantial necessity. According to my theory violence is not a common element within acts of civil disobedience and may only be used when it is absolutely necessary. Violence can be morally justified within civil disobedience but is not present within the ordinary instances of correcting/addressing moral wrongdoings of the state.

3.4 Communication

Included in Rawls' definition of civil disobedience is the stipulation that the act is "...done with the aim of bringing about a change in the law or policies of the government" (Rawls 1971, 320), in other words, the act must be communicative. Rawls believes that an act of civil disobedience must be directed towards changing the law or policy behind the wrongdoing of the state, as a consequence of his belief that the objective of civil disobedience is to correct and strengthen the structures of justice within society and to promulgate a better society for the agent's fellow citizens. Because Rawls believes civil disobedience is a matter which must be done publicly and for the benefit of society, Rawls believes that one of the elements which must be included in an act of civil disobedience is that it is done in an effort to change the law/policy it is directed towards. Rawls believes this aspect of communication is essential to the moral justifiability of civil disobedience because a function such as communication allows for civil

disobedience to be used to further justice in the future, as well as establishes the agent's devotion to the correction and sustaining of the system of justice in society. I do not believe that civil disobedience must include communication in order to be morally justifiable because I disagree with Rawls concerning what the aim of civil disobedience ought to be. I believe civil disobedience is a method used by agents to correct/address individual wrongdoings of the state, the goal of which ought to be to correct/address these wrongs and aid the victim(s) rather than to correct the system facilitating them. I do not believe that civil disobedience must be communicative because according to my theory civil disobedience ought to be engaged in with the intent to correct/address a specific wrongdoing of the state, instead of attempting to correct the system itself. Since the agent is not attempting to correct the system of justice of the state they are not required to display their disapproval and attempted correction/addressing of the wrongdoing with the public because it is no longer a public matter. According to my definition of civil disobedience an agent engages in civil disobedience for personal moral reasons and the aim of their action (civil disobedience) is directed at correcting/addressing individual wrongdoings of the state. Since the aim of a civil disobedient, according to my definition, is to engage in civil disobedience in order to correct/address a moral wrongdoing by the state, the stipulation, therefore, that a civil disobedient's action must be in an attempt to change the law/policy facilitating the wrongdoing is not required to morally justify their action.

A different reason why the stipulation of communication must be included in civil disobedience in order for it to be morally justified is presented by Kimberley Brownlee. She argues that "...in civilly disobeying the law, a disobedient seeks to convey not only her disavowal, condemnation, and denunciation of a certain law or policy as well as her dissociation from both that law or policy and the authority that enacted it, but also her desire for recognition by that authority and the relevant majority that a lasting change in law or policy is required." (Brownlee 2006, 180) Brownlee argues that there are only certain modes of action which would successfully facilitate this goal, and that a civil disobedient "...to be serious in her aim to bring about a lasting change in law or policy...must recognize the importance of engaging policymakers in a moral dialogue." (Brownlee 2006, 180) Brownlee presents the view that the aim of civil disobedience (in part) is to engage in a moral dialogue with the state in order for both sides to express the reasons supporting their views on the issue at hand. As Brownlee

explains, “(w)hen disobedients breach the law in the conscientiously communicative ways exemplified in the paradigmatic civil disobedience, they enter into a conflict with authority at the level of deeply held conviction.” (Brownlee 2006, 182) I do not agree with Brownlee that civil disobedience must include communication in order to be morally justifiable because I believe her theory is based on a misrepresentation of the relationship between citizens and the state. Brownlee categorizes civil disobedience as a method of moral dialogue between citizens and the state, however in certain instances the state is unreasonable and therefore an unengaged, unworthy or impossible partner in moral dialogue. Civil disobedience, according to my definition, constitutes an agent engaging in illegal action in order to correct/address a wrongdoing of the state, however it is only engaged in when all other reasonable legal courses of action have been attempted. If the disobedient is unsuccessful at correcting/addressing their issue through the legal paths available it is sometimes because the state is either unsympathetic to the moral concerns of the citizen or unwilling to engage in a dialogue at all. At this point the civil disobedient is forced to find alternative methods to correct/address the moral wrongdoing of the state and it is clear that the state is not willing/able to engage in a moral dialogue in regard to the issue at hand. Civil disobedience therefore, according to my definition, does not need to include communication because it is a category of action used when moral dialogue and reasoning is no longer available/useful and therefore illegal action can be morally justified.

3.5 Argument from Misdirection

The first argument contending that my definition of civil disobedience is better than Rawls’ is the argument from misdirection. The argument from misdirection contends that Rawls misdirects the moral intention of acts of civil disobedience towards political systems of justice as opposed to specific wrongdoings. Rawls mistakenly argues that the purpose of civil disobedience ought to be to attempt to correct the system of justice present in the state, as well as to support its future operation. Rawls believes the purpose of civil disobedience is to facilitate justice in society through the correction of flaws within the system of justice of the state, and as a result of these changes being brought about the state will facilitate justice more effectively and the initial wrongdoing will be corrected. As Rawls explains, “(i)f straightaway, after a decent period of time to make reasonable political appeals in the normal way, men [and women] were in general

to dissent by civil disobedience from infractions of the fundamental equal liberties, these liberties would, I believe, be more rather than less secure. Legitimate civil disobedience properly exercised is a stabilizing device in a constitutional regime, tending to make it more firmly just.” (Rawls, as quoted in Carter 1998, 32)

I believe that Rawls is mistaken in the purpose he ascribes to civil disobedience because it degrades the plight of a victim of wrongdoing from the state by elevating the importance of fixing the political system as opposed to affording a victim the dignity they deserve. Rawls is mistaken in ascribing to civil disobedience the purpose of correcting the system of justice of the state because the correction/addressing of the wrongdoing itself ought to be the focus of moral importance, not the political system surrounding it. Rawls errs when he places higher moral importance on the correction of the political system of the state over correcting/addressing individual wrongdoings because he fails to allocate the person suffering from the moral wrongdoing the dignity they merit. The morally relevant aspect of a wrongdoing of the state is not that it negatively impacts the effectiveness of the state’s facilitation of justice, but is rather the harm which is produced through the action of the state and the victim(s) this harm befalls. My definition of civil disobedience is superior to Rawls’ because it properly directs the moral intention of an act of civil disobedience to the aspect of the wrongdoing which ought to be of the highest moral importance. My definition of civil disobedience is superior to Rawls’ because it accurately ascribes to the act (of civil disobedience) the moral intention which ought to drive an agent of civil disobedience.

3.6 Argument from Scope

The second argument in defense of my definition of civil disobedience is the argument from scope. The argument from scope identifies the fact that because Rawls associates his definition of civil disobedience as applying in morally just or nearly just states, which he identifies as only possible if they are democratic, his definition is too narrow. Rawls’ theory of civil disobedience solely allows for instances of civil disobedience to occur within democratic states, and it is neither accurate nor practical to restrict the scope of civilly disobedient action in this way. Instances of states perpetrating moral wrongdoing are not confined to democratic states

and it is plausible to imagine that in an undemocratic state (possibly even more frequently than in democratic states) an agent may be forced to engage in illegal action in order to correct/address wrongdoing of the state. In these instances, however, Rawls would not posit that these acts qualify as civil disobedience. I believe that in instances such as the one previously proposed, in which an agent is forced to engage in illegal action in order to correct/address a moral wrongdoing of the state, this act should be identified as an act of civil disobedience because of the conscientiousness of the agent directing the act, regardless of whether the state in question is a democracy. My definition of civil disobedience solely requires that an agent of civil disobedience engage in the act because they are conscientiously driven to correct/address a moral wrongdoing of the state and therefore allows for my definition to be used in any political system. My definition is superior to Rawls' because it can be used to identify multiple forms which acts of civil disobedience may take, in different political climates, which allows for a more comprehensive definition of civil disobedience as an overarching political phenomenon.

3.7 Argument from Effectiveness

The final advantage for my definition of civil disobedience over Rawls' is that my definition identifies more effective means of bettering society overall. Rawls' theory of civil disobedience consists of the belief that civil disobedience is a public matter which ought to be engaged in for the purpose of correcting the system of justice within the state. It provides a method for civil disobedients to alert society to the wrongdoings they see within the state, and strive to prevent the harm from occurring again by attempting to change the law/policy facilitating the wrongdoing. This definition of civil disobedience, however, can be criticized for its ineffectiveness at bringing about actual change in the condition of the victims of the wrongdoing of the state. Contrasting with this, my account of civil disobedience is directed towards an agent of civil disobedience correcting/addressing a specific harm done to the victim(s) of a wrongdoing of the state. This places emphasis on the importance and moral relevance of individual actions to bring about moral change, and therefore encourages a belief among individuals that they are capable of correcting/addressing moral wrongdoing when they see it occur. My account not only provides a theoretical highlighting of an agent's capability to correct/address wrongdoing, but

creates an impetus on individuals within society to proactively combat moral injustices when they encounter them.

An example of this could be an agent who witnesses the police engaging in unjust conduct. The real world example I will use is the police brutality which occurred during the 2010 G20 summit held in Toronto. During the 2010 G20 summit in downtown Toronto there were large and disorderly protests which sparked a recklessly severe reaction from the Toronto Police Services. The size and severity of these protests were on a large scale and the Toronto police force was unprepared, uncoordinated and inexperienced at dealing with them. Inexperience of the police and violence on the part of the protestors resulted in 1,100 arrests, constituting the largest mass arrests in Canadian history. (Seglins, 2012) The Toronto police engaged in mass arrests, used unacceptable holding facilities while the arrests were being processed, facilitated unwarranted and arbitrary search and seizures, as well as engaged in excessive uses of violence. As Abby Deshman, public safety director of the Canadian Civil Liberties Association, stated in regards to the actions of the Toronto police during the G20 summit, “..there were rights violations on a massive scale...” (Seglins, 2012) The police justify their actions by referring to the laws within society which allow for the legal use of force in the conduct of their duties, however citizens witnessing events such as the excessive use of force during the G20 summit could plainly see that the actions of the police were not just. A citizen witnessing these events may believe that the actions of the police were severely unjust and must consequently decide which course of action to take in response. If the citizen lives in a morally just (or nearly just) state they are obligated to seek recourse through all reasonable legal avenues before they resort to civil disobedience. If the legal course of action is unsuccessful, or if the state is unjust and therefore the legal courses of action available are not satisfactory or legitimate, the agent may resort to civil disobedience. Civil disobedience is a tool an agent uses to affect change when they believe a moral wrongdoing perpetrated by the state has occurred. Although it is morally just for agents to seek legal resolution to immoral actions of the state, this is often a long and arduous process. Concrete steps taken by the state to resolve such concerns are often scarce. Civil disobedience provides citizens with a mechanism to take justice into their own hands when the state is either unable or unwilling to correct/address the wrongdoing it is promulgating. Having civil disobedience as a final resort allows citizens to take justice into their own hands and strive

to produce the moral condition the state has failed to bring about. Having civil disobedience as an available course of action allows citizens to have tangible power over the moral conditions within society and in turn provides citizens with the respect and dignity this promotes through their being in partial control over the justice of the state.

My account of civil disobedience describes conditions that would promote the moral powers of citizens. It also allows for more scope for morally justified civilly disobedient action than Rawls' account. Rawls allows for civil disobedience to be morally justified in pursuit of a narrow conception of justice within society and under very tight constraints on action. My definition allows for civil disobedience to be used whenever a state engages in a severe harm and allows for whatever action is necessary from the civil disobedient (within the three constraints on action I have specified) in order to correct/address the wrongdoing of the state. Rawls' account too narrowly limits the type of morally justified action which may be used within acts of civil disobedience. My account of civil disobedience allows for violence to be used to correct/address the wrongdoing of the state, and morally justifies whatever action is necessary (constraints permitting) to correct/address the wrongdoing. Finally, my account of civil disobedience describes a citizenry invested with the moral authority to address serious wrongdoing by the state directly, seeking to correct or address the very wrongdoing itself.

In conclusion, I have defined civil disobedience as a conscientiously motivated breaking of the law in the attempt to correct or appropriately address a moral wrongdoing of the state. This definition does not include the stipulations of publicity, nonviolence and communication, contrasting with Rawls' account of civil disobedience. I believe that civil disobedience ought to be engaged in for a different reason than Rawls. Rawls believes the purpose of civil disobedience ought to be to expose injustice produced by the state to the rest of society and to correct the system of justice producing these wrongdoings. I believe that civil disobedience can have this effect, but its primary function ought to be to correct or address specific wrongdoings of the state. I have offered three arguments in favour of my account over Rawls': 1) the argument from misdirection, 2) the argument from scope and 3) the argument from effectiveness.

Chapter 4

4.1 Determining the Morality of Civil Disobedience

Thus far in this thesis I have outlined my theory regarding the circumstances and conditions necessary for the morally justified use of civil disobedience. I have defended the position that there are different levels of harm produced by actions of the state and this belief presupposes that moral standards exist which provide the factual basis according to which one may assess these various levels of harm. In chapter one I explained my theory regarding the level of severity of the state's wrongdoing which would warrant the use of civil disobedience in order to correct/address the wrongdoing, proposing that the wrongdoing of the state cannot be arbitrary or superficial but rather must be a serious harm which undermines basic interests and prevents a good quality of life with dignity for citizens. One of the main questions which remains to be answered, however, is how one weighs the moral wrongness/correctness of one action compared to another. In this thesis specifically, the question is how one may determine when the state's action is so severely harmful that it alters the moral conditions of the situation, allowing for what would ordinarily be immoral actions to become morally justified acts of civil disobedience. This chapter aims to provide an explanation of how, in cases of morally justified civil disobedience, action that would ordinarily be immoral becomes the morally correct course of action, one which outweighs citizens' *pro tanto* political obligation to the state. In order to determine the morality of different actions one may employ an ethical theory in order to assign moral evaluation to the various actions involved and thus determine which action is morally correct. The nature of morality is such that there is reasonable disagreement between agents regarding what comprises or entails morally correct and incorrect action, leading to a clash of moral values. There are a multitude of ethical theories used to resolve moral dilemmas which elicit different standards and methods through which morally correct and morally incorrect action is determined. In this thesis I do not advocate a particular ethical theory to evaluate moral correctness or incorrectness, but rather propose that the metaethical theory of moral realism be used to establish the moral factual basis of my theory of civil disobedience.

Moral realism proposes the notion that objective moral facts exist and hold normative power over human action. These moral facts are stance-independent from the biases/beliefs of agents and it is possible to form morally justified opinions regarding these moral facts. Moral realism provides the factual basis for judgments of right and wrong and these distinguish morally justified from unjustified acts of civil disobedience. In this chapter I will be interpreting my theory of the moral justifiability of civil disobedience within the context of moral realism in order to base my theory on a metaphysical claim regarding the objective truth of moral facts. However, I will not be providing any arguments regarding the epistemological viability of moral realism as this would lead into a discussion of metaethics which is beyond the scope of this thesis. Although I do not provide an argument supporting moral realism I do provide an argument as to why consequentialism, specifically act consequentialism, is not suitable to accurately determine moral action within the context of my theory.

4.2 Consequentialism

Moral realism is a metaethical theory which means that it is not used to determine the moral status of a specific action, but rather provides a metaphysical claim regarding the nature of moral truth. The moral realist holds that objective moral facts exist which hold normative power over human action. Moral realism provides the framework in which individual agents' moral judgments are objectively morally right or wrong depending on whether the agent has correctly identified an objective moral truth. Ethical theories such as consequentialism, however, are in the business of determining the morality of specific actions. Ethical theories such as these work to track moral facts as best they can in order to determine whether an action in question is morally correct or incorrect. I will remain neutral regarding which ethical theory most satisfactorily tracks the moral facts regarding an action. At this point, however, I will provide an argument supporting why consequentialism is incompatible with my theory of morally justified civil disobedience. Consequentialism provides a stark contrast to the aim of my theory. It is a forward-looking theory which determines moral action based on the consequences of actions, while my theory of morally justified civil disobedience is backward-looking in so far as it is designed to facilitate justice when it has been neglected by the state.

Act consequentialists hold that the moral rightness or wrongness of an act is determined solely on the consequences of the action.² Act consequentialists “claim that an act is morally right if and only if that act maximizes the good, that is, if and only if the total amount of good for all minus the total amount of bad for all is greater than this net amount for any incompatible act available to the agent on that occasion.” (Sinnott-Armstrong, 2003) Act consequentialism determines moral action based on the total amount of aggregate good produced by the act, promoting the conclusion that the correct moral course of action in any circumstance is that which produces the most aggregate good for all involved/affected by the action. Act consequentialism determines moral action solely on the consequences of the act (which action produces the most aggregate good) and it is for this reason that act consequentialism is not a satisfactory theory to accurately determine whether, within the context of my theory, civil disobedience can be morally justified.

Act consequentialism is not a satisfactory ethical theory to assess the moral justification of civil disobedience because civil disobedience is a conscientiously motivated breaking of the law in the attempt to correct or appropriately address a moral wrongdoing of the state. According to my definition, civil disobedience is morally justified only when it is engaged in for the purpose of correcting or addressing a wrongdoing of the state. Act consequentialism is not concerned with correcting specific wrongdoings or promoting moral principles, but is rather only concerned with promoting the most aggregate good possible from the choices of action available. Act consequentialism, therefore, would promote the ideal that civil disobedience is only morally justified if it promotes the most aggregate good that the situation allows. Act consequentialism is unsatisfactory to determine the morality of civil disobedience in the context of my theory because it places moral worth on the consequences of the action (the amount of aggregate good produced) rather than on the moral wrongdoing of the state. Morally justified civil disobedience according to act consequentialism, therefore, would only coincide with my theory if the act of civil disobedience in question is incidentally the same action which produces the most aggregate good. Therefore, act consequentialism cannot be accurately used within my theory to determine whether civil disobedience can be morally justified.

² I will be focusing specifically on act consequentialism rather than other forms of consequentialism in order to limit the discussion within reasonable bounds.

4.3 Moral Realism

Moral realism is a metaethical theory which holds that objective moral facts “exist in an absolute and robust manner” (Rodriguez-Blanco, 2012), and hold normative power over human action. Moral realists believe that “there is a moral reality that people are trying to represent when they issue judgments about what is right and wrong” (Shafer-Landau 2003, 13), and that “moral claims do purport to report facts and are true if they get the facts right.” (Sayre-McCord, 2005) Objective moral facts, according to the moral realist, exist independently of human action and are stance-independent. The moral realist holds that moral facts “obtain independently of any preferred perspective, in the sense that *the moral standards that fix the moral facts are not made true by virtue of their ratification from within any given actual or hypothetical perspective.*” (Shafer-Landau 2003, 15) Moral realism holds that moral facts are evidence-transcendent, meaning either “moral truths are not constituted by the evidence we have for them...[or] that there might be truths that are in principle unknowable.” (Shafer-Landau 2003, 16) It is beyond the scope of the present thesis to provide an argument supporting either of these claims regarding the nature and accessibility of objective moral facts, however it is important to clarify the kind of moral realism presupposed in my account of morally justified civil disobedience. Let me introduce the term “moral optimist” to describe the position I hold on this topic. The moral optimist holds that, although agents cannot know the truth of objective moral facts with complete certainty, it is possible to form morally justified opinions regarding them and this provides the means to fairly judge the morality of actions. The fact that the moral optimist holds that these moral facts do exist is a metaphysical claim regarding the nature of moral truth which supports the belief that different levels of moral wrongness exist, and these facts furnish the factual basis for judgments of right and wrong moral behaviour. The moral facts which furnish the factual basis for judgments of right and wrong are used to distinguish morally justified from unjustified acts of civil disobedience. It is important to note, however, that although agents use their morally justified opinions regarding objective moral facts to guide their moral action, an agent acts morally correctly if and only if their action aligns with the objective moral truth.

Because I hold that objective moral facts exist I do not believe that the moral justification of one’s action is based on subjective factors about one’s way of deliberating and choosing. To

act rightly, one's action must align with objective moral facts. Within my theory of morally justified civil disobedience it is not sufficient, for example, to have a good opinion regarding what the correct course of action ought to be or the effort an agent has taken to discover the correct moral action, but rather the moral justification of one's action is determined by whether one has in fact gotten the relevant moral facts correct. Holding reasonable judgments regarding the moral truth is not sufficient.

My definition of civil disobedience is that civil disobedience constitutes a conscientiously motivated breaking of the law in the attempt to correct, or appropriately address, a moral wrongdoing of the state. This definition is morally directed by an agent's conscientious motivation to correct or appropriately address a moral wrongdoing the state has committed. Thus far I have alluded to types of wrongdoing by the state which would provide the circumstances that would warrant the use of civil disobedience, and specified that the harm caused by the wrongdoing of the state cannot be superficial. The state must produce a serious harm which undermines basic interests and prevents agents from living a good quality of life with dignity. There are different levels of harm and the state must engage in action of a certain level of severity in order to provide the circumstances under which civil disobedience can be morally justified. Different levels of harm entail different levels of wrongdoing. Objective moral facts determine the truth of these claims. The moral realist holds that objective moral facts exist and it is according to these truths that the levels of harm produced by the state/the agent of civil disobedience are properly assessed. When the wrongdoing of a state is so severe that it undermines basic interests and prevents agents from living a good quality of life with dignity, the moral circumstances of the situation change in so far as actions that would ordinarily be immoral become a morally permissible course of action. These conditions create the circumstances under which civil disobedience can be morally justifiably engaged in, however whether the act is in fact morally justified depends not only on the wrongdoing the act of civil disobedience is directed towards correcting/addressing (whether the wrongdoing of the state meets the criteria of severity which would warrant civil disobedience), but also on the nature of the act of civil disobedience itself. As I have specified earlier in this thesis there are several constraints on the form of action civil disobedience may take in order to allow it to be morally justifiable. The conditions which constrain the type of action civil disobedience may take in order to be morally

justifiable are that: 1) all reasonable avenues of legal action have been taken to try and correct/address the wrongdoing before civil disobedience is engaged in, 2) the act of civil disobedience is a less severe wrongdoing than the wrongdoing of the state, and 3) the amount of harm which will result to all agents affected is minimized. Judgments of wrongful harm are moral judgments, and according to my view they are either objectively morally correct or objectively incorrect. Thus, whether an act of civil disobedience is morally justified is also an objective matter.

Although the truth of the objective moral facts held in moral realism cannot be accessed by human agents with full certainty, in accordance with the stance of the moral optimist, agents are able to form morally justified opinions regarding these facts. Thus, although we may never be certain that we act morally rightly in undertaken acts of civil disobedience, we can form morally justified beliefs about whether we do so. If we act in good faith, on a reasonable basis, and yet fail to capture the moral truth, we have acted morally wrongly. However, our reasonableness is likely to ameliorate or perhaps excuse our wrongdoing.

4.4 Examples of Objective Moral Facts

In this section I will provide three examples of moral claims that, if they were objectively factual, would warrant the use of civil disobedience. The first moral fact I propose is that every person has a right to have access to the essential goods required for survival, namely, food, water and shelter. This does not imply a positive duty of the state, in that the state is not thereby required to provide these goods to citizens. Rather it implies a duty not to deny access to these goods where they are readily available and not another's property. This is a minimal duty; I do not mean to deny stronger duties of aid. I merely adopt this minimal claim as a good candidate for an objective moral truth. It is supported by the following reasoning. Human beings are living creatures who require food, water and shelter in order to survive. All humans are similar in so far as every person requires these goods to survive. Reasonable agents would agree that justice involves sharing essential, previously unowned goods when there is the potential for severe harm to occur. A severe harm could be identified as an agent dying from a lack of essential goods. Based on this conception of justice it is morally unjust to deny living beings the goods they

require to stay alive. Because of the immense severity of the harm which would result if an agent were denied access to these goods, if a state violated this moral fact an agent of civil disobedience would be morally justified in engaging in ordinarily immoral action in order to correct/address the wrongdoing. In these instances ordinarily immoral action becomes morally justified and an agent's *pro tanto* political obligation to obey the law is overridden.

The second theoretical objective moral fact I propose is that every agent has a right to live their life in the manner they desire and ought not to be prevented from engaging in their preferred way of living (as long as their actions do not harm or prevent other agents from living their preferred way of life, in other words, does not impede on the freedom of others). This moral fact is supported through the deduction that each agent is a free and autonomous being. It is not morally correct to constrain the lives of free agents because to do so would be to violate their dignity, and undermine their capacity to live autonomously and in the manner they deem best. If the state were to violate this moral fact, the resulting harm would be so severe that agents of civil disobedience would become morally justified in engaging in ordinarily immoral action in order to correct/address the wrongdoing.

The third theoretical objective moral fact I will propose is that each person is entitled to not be insulted/degraded verbally or physically in leading their life in the manner they deem as of the highest quality. As previously stated, each human being is a free agent who has the ability and right to autonomously decide their individual conception of the best quality of life and act according to this belief (provided they do not interfere with the freedom of others). Human beings are free agents with the right not only to lead their lives in the way they choose as best, but also to lead their lives without suffering, verbal or physical abuse regarding these choices. Agents have a right to lead the lives they choose as long as they do not interfere with the freedom of others, and reciprocally have the right to not have their freedom impeded upon by others. I regard acts of verbal or physical abuse in respect to the valid life choices of agents as a violation of their freedom. Not only do these acts harm the individual, but constitute a means of deterring them from engaging in free action. I believe that verbal or physical abuse in regards to valid life choices constitutes a means of impeding one's freedom to engage in freely chosen action because the harm it causes to agents may deter them from acting freely and instead acting

in an attempt to avoid degradation and insult, in addition to the fear of verbal/physical consequences they may face if they do engage in their choice of lifestyle. The violation of this moral fact, therefore, that agents have a right not to be insulted/degraded verbally or physically in leading their lives the way they deem best, would be of such a severe level of harm that it would morally justify an agent of civil disobedience to engage in ordinarily immoral action in the attempt to correct/address this wrongdoing, providing the moral justification for an agent of civil disobedience to override their *pro tanto* political obligation to the state.

A real-world example of a state violating my third proposed objective moral fact is the law Vladimir Putin put into effect in 2013. This law is informally titled Russia's "gay propaganda" law, and is Russian federal law #135-FZ. (Decker, 2013) This law bans the distribution of "homosexual propaganda" to minors and the punishment for its breach is a large fine. Putin enacted this law because he does not believe in marriage equality and believes that non-traditional sexual relationships are harmful to children and youth. A segment of the official law reads as follows. "Propaganda of non-traditional sexual relations among minors, manifested in the distribution of information aimed at forming non-traditional sexual orientations, the attraction of non-traditional sexual relations, distorted conceptions of the social equality of traditional and non-traditional sexual relations among minors, or imposing information on non-traditional sexual relations which evoke interest in these kinds of relations – if these actions are not punishable under criminal law – will be subject to administrative fines: for private citizens in the amount of 4,000 – 5,000 rubles; for administrative officials, 40,000 – 50,000 rubles; for legal entities, 800,000 – 1,000,000 rubles or suspension of business activities for up to 90 days." (Decker, 2013) This law is an example of a breach of my third objective moral fact, that each person is entitled to not be insulted/degraded verbally or physically in leading their life in the manner they deem as of the highest quality. This law violates my third moral fact because, by assigning a fine to the distribution/display of information ("propaganda") concerning non-traditional sexual relationships, the state shows it does not respect individuals' lifestyles, and goes even further by communicating the idea that these lifestyles are wrong in so far as minors must be protected from ideas of them. By creating such a law the Russian state has created an atmosphere in which the lifestyle choices of certain individuals are degraded and the agents who engage in these banned actions are subject to verbal or physical abuse because of the support of

the state toward the idea that their choice of lifestyle is wrong. These agents, therefore, have their freedom impeded in so far as they are effectively prevented from engaging in free action which displays information concerning the nature of their non-traditional relationships. This violation of the right of agents to not be insulted/degraded verbally or physically in leading their life in the manner they deem as of the highest quality is such a severe harm that it would morally justify an agent to engage in civil disobedience in order to correct/address this wrongdoing.

4.5 Paradigmatic Example of Civil Disobedience

I would like to conclude my thesis by presenting a real-world situation which represents a paradigmatic example of my definition of civil disobedience. The example of civil disobedience which will be used to exemplify my definition of civil disobedience is the work a group of activists led in an attempt to correct/appropriately address the state wrongdoing of the slaughter of dolphins/porpoises in Taiji, Japan. In a cove in Taiji, Japan, Taijiiian fishermen engage in the practice of dolphin drive hunting, which “involves the herding of dolphins at sea and driving and corralling them into the confines of the cove in Taiji.” (WDC, 2016) “Upon locating a pod, the dolphin hunters radio each of the other boats, giving them their location in order to start the ‘drive’ of the pod into the killing cove. The boat that initially discovered the dolphins remains with the pod until other boats arrive. Once there are five or more boats on the scene, the hunters will initiate the drive. The boats form a v-shaped wall around the family of dolphins. The dolphin hunters then utilize the long metal pole attached to the side of each boat, hammering the flanges on top to create a deafening “wall” of sound. The banging sound terrifies the dolphins, causing them to swim away from the sound, in the direction of the driving boats – driving them straight toward the Cove.” (Sea Shepherd, 2016) “Here they are slaughtered for meat or kept alive for sale to marine parks and aquaria across the globe. Yearly quotas for these drive hunts reach into the thousands, where small cetaceans of several species including bottlenose dolphins, striped dolphins, spotted dolphins, false killer whales and short-finned pilot whales, are taken.” (WDC, 2016) “Over 1000 dolphins are killed annually in drive hunts in Taiji.” (WDC, 2016) The Taijiiian fishermen engage in this practice in the attempt to find specific types of dolphins to sell to aquariums or marine parks, or to sell their meat to grocery stores/other venues, which generates large revenue for the town. Almost all the remainder of the dolphins/porpoises trapped

in the cove (that are not sold and whose meat will not be eaten) are slaughtered. It is estimated that “some 20,000 dolphins and small whales die in Japan every year.” (WDC, 2016) This mass slaughter of dolphins/porpoises each year is a horrible moral wrong in and of itself, however an additional wrongdoing is that the meat is sold in supermarkets and it has been proposed that it be provided to children in their school lunches. It is clear that the state of Taiji (and arguably Japan overall³) is committing a very serious wrongdoing. The nature of this wrongdoing is very serious, and in keeping with the stipulations regarding the level of harm which warrants civil disobedience explained in chapter one, is neither arbitrary nor superficial. The third stipulation listed regarding the level of harm which would warrant civil disobedience is that the wrongdoing must perpetrate a serious harm which undermines basic interests and prevents a good quality of life with dignity, which is clearly visible in the act of the Taiji dolphin/porpoise slaughter. In regards to this specific example of the whaling industry in Taiji the harm facilitated by the state is primarily against dolphins/porpoises, however works to undermine human interests and the dignity of the citizens of Taiji as well.

I argue that the wrongdoing perpetrated towards the dolphins/porpoises in Taiji is a moral wrongdoing which can be seen as a very serious harm in so far as it is a needless slaughtering of conscious life. The harm lies not in the fact that the Taiji whalers slaughter these dolphins/porpoises because of their desire to eat the meat or use the dolphins for other means⁴, but rather in the reasonless destruction of all the remaining dolphins/porpoises they do not wish to sell or eat. Each day the Taijians fishermen herd entire pod(s) of dolphins/porpoises into the cove, however only a small fraction of these dolphins/porpoises are chosen to sell to aquariums and marine parks. Roughly the entirety of the remainder of the dolphins/porpoises, regardless of how much dolphin/porpoises meat the fishermen require to eat/sell, are slaughtered. The unnecessary destruction of so many (dolphin/porpoise) lives is a very serious harm with overzealous cruelty and apathy as its facilitator. There is no logical reason why the remainder of

³ For the purposes of this segment I will be addressing the wrongdoing of the state of Taiji for the sake of constraints on space, however it is arguable that the state of Japan is equally as blameworthy for the wrongdoing.

⁴ I wish to note at this point that my personal opinion is that the killing of dolphins/porpoises for the purpose of eating their meat as well as the selling of dolphins/porpoises to aquariums/water parks constitute moral wrongdoings, however the nature of these specific moral wrongdoings will not be discussed in this thesis.

the dolphins/porpoises must be slaughtered when the fishermen reach their desired quota of dolphins/porpoises to sell/eat for the day and this practice therefore constitutes an evil action. One can reasonably extrapolate that all unnecessary slaughtering of innocent life is immoral and this provides an example of the severity of the wrongdoing these fishermen engage in and the serious nature of the wrongdoing of the state for legally permitting such behaviour. The second element of moral wrongdoing within the act of the Taijian slaughtering of dolphins/porpoises is that the state of Taiji sells the dolphin/porpoise meat in supermarkets and other venues without providing information to the consumers regarding how dangerous the meat is to consume. Dolphin/porpoise meat is very dangerous for humans to consume because of the extremely high levels of mercury within the animal, and is “proved to be highly contaminated with toxic chemicals such as mercury, methyl mercury and PCBs. Repeated chemical analyses have shown that the level of mercury in dolphin meat is much higher than the maximum allowable level set by the Ministry of Health, Labor and Welfare of Japan and the World Health Organization... There is worldwide concern that mercury accumulated in the human body poses a serious health risk, especially to pregnant women and children. The contaminated dolphin meat does not have a warning label.” (Dolphin Project, 2016) Not only is the dolphin/porpoise meat sold in grocery stores without health warnings, but the town mayor of Taiji proposed to introduce the meat into the school lunch program all over the country. School lunches in Japan are provided by the school system and are mandatory to be consumed in their entirety. This withholding of important information related to the serious health effects which could follow from the consumption of dolphin/porpoise meat is neither an arbitrary nor superficial harm, and clearly works to diminish the quality of the lives of the victims of the wrongdoing (those who unknowingly eat the meat and become sick with mercury poisoning), thus undermining their dignity. It is clear, therefore, that the wrongdoing of the state of Taiji in the slaughter of dolphins/porpoises is a serious wrongdoing, which morally justifies the use of civil disobedience in order to remedy.

The actions of civil disobedience lead against the wrongdoing in Taiji were executed by a group of activists lead by Richard O’Barry. O’Barry was a famous dolphin trainer who trained the dolphins used in the show “Flipper”, however realized afterwards that keeping dolphins in captivity is morally wrong and dedicated his life from that point onward to the protection of dolphins around the world. O’Barry was made aware of the dolphin slaughter in Taiji and

therefore made a conscientious decision that the actions of the Taiji state were immoral, and decided that he must attempt to correct/address this wrongdoing. O'Barry and his team travelled to Taiji with their aim being to expose the wrongdoing to the rest of the world. In Taiji they were met with much resistance from local residents/fishermen as well as the police. When the activists tried to get near the cove they were physically blocked by residents and were unable to enter the cove or areas with visual perspective on the cove. When the activists attempted to take photos or videos of anything near the cove the residents/fishermen preventing their access to the cove would prevent them from filming/photographing by standing directly in front of their cameras and refusing to move, or putting other cameras/objects in front of their cameras. As well, throughout their many attempts to gain access to or view the cove they were verbally harassed by the residents/fishermen present. During their trip they (specifically the leader of the group, O'Barry) were interrogated by legal entities of the state and intimidated into staying away from the cove with threats of serious punishment.

The activists did not engage in any verbal or physical confrontations even though they were being severely harassed in their efforts to gain access to/a view of the cove, and chose an alternate route of action to expose the wrongdoing. The crew first snuck into the cove at night and installed underwater microphones which recorded audio narrative of the frantic dolphin/porpoise cries overnight while they were held in the cove, as well as throughout the next day while they were being slaughtered. Their next action was to covertly enter the cove one of the following nights and install cameras through the area, disguised as rocks. The cameras were left overnight to film the slaughter of dolphins/porpoises the next day, and then retrieved afterwards. The group of activists then used the audio/video recordings of the cove to expose the wrongdoing of Taiji to the world through the production of the documentary that followed their actions titled *The Cove*. Upon their return from Taiji the activists targeted the International Whaling Commission directly as an audience for their message concerning the wrongdoing in Taiji. *The Cove* ends with a powerful image of O'Barry, with a television strapped to his chest, illegally entering an annual meeting of the International Whaling Commission. On the television strapped to his chest are the videos of the dolphin/porpoise slaughter the group of activists recorded in Taiji. O'Barry proceeds to walk up and down the rows of delegates of the commission, representing different countries, standing pointedly in front of the Japanese

representative for a longer amount of time than the rest in order to draw attention to their facilitation of this wrongdoing.

The act of civil disobedience engaged in by the group of activists concerning the wrongdoing of the mass slaughter of dolphins/porpoises in the state of Taiji is the paradigmatic example of civil disobedience in relation to my definition of civil disobedience for several reasons. The first reason is because no matter how often the group of activists were harassed (verbally and physically) by the Taijiiian fishermen, residents or police they remained calm and civil, refraining from engaging in any violent action. This aligns with my definition of civil disobedience because although I stipulate that violence may be morally justifiably used within certain acts of civil disobedience, the prerequisite for engaging in violence is that every other (reasonable) non-violent option has been attempted and failed, thus forcing the agent to engage in morally justified violence to correct/address the wrongdoing of the state. In the example of the activists from Taiji they first sought to correct/address the wrongdoing though non-violent means, and when they succeeded, refrained from engaging in violence. The second reason why this example of civil disobedience aligns with my definition of civil disobedience is that the wrongdoing of the activists in regard to them breaking the laws of Taiji which ban the filming/recording/trespassing in the cove, was much less severe than the wrongdoing of the state. Finally, this example of civil disobedience is paradigmatic in regards to my definition of civil disobedience rather than Rawls' because the activists were acting so as to correct the wrongdoing of the state, to stop the dolphin/porpoise slaughter entirely and provide information to the public regarding the danger of consuming dolphin/porpoise meat, rather than aiming to solely change the laws/policies of Taiji concerning this practice. The act of civil disobedience performed by the group of activists in *The Cove*, therefore, in alignment with all the requirements and circumstances laid out in my theory which allow for an act of civil disobedience to be morally justifiable, is in fact morally justified.

This paradigmatic example of civil disobedience reflects my theory in so far as the civil disobedients' judgment was justified. The moral realist holds that although agents may never know with full certainty moral truths, they are able hold morally justified opinions regarding these truths. In this specific example of the civil disobedience in Taiji, a reasonable opinion

regarding the unnecessary slaughtering of hundreds of dolphins/porpoises (the slaughter of dolphins/porpoises which will not be sold or eaten) is that this wrongdoing constitutes excessive cruelty and unreasonable destruction of sentient life. If the group of activists in Taiji hold the morally justified belief that the Taiji dolphin/porpoise slaughter constitutes an objective wrongdoing by local authorities, their act of civil disobedience is morally justified. I will note at this point, however, that only if the activists are in fact correct regarding the objective truths of the situation, will their act of civil disobedience in fact be morally justified.

Conclusion

In this conclusion I will first describe the content of each of the chapters of the thesis before turning to a re-statement of the important arguments of the thesis. In the thesis I develop a theory of civil disobedience as a conscientiously motivated breaking of the law with the motivation of correcting or appropriately addressing a moral wrongdoing of the state. I argue that civil disobedience can be morally justified under certain circumstances. I argue that civil disobedience is of the utmost importance to all agents who live under a state, as civil disobedience allows citizens to protect the rights of themselves and others (including those of sentient creatures and future generations) in the face of the overarching power of the state.

In chapter one I introduce the topic of civil disobedience through Plato's work *The Crito*, as well as provide important historical definitions of civil disobedience from John Rawls and Henry David Thoreau. Within the context of my theory the type of wrongs which warrant civil disobedience cannot be arbitrary or superficial, but are rather harms which undermine basic interests and prevent a good quality of life with dignity for citizens. In addition, I hold that harms which cause unjustified suffering or death to sentient creatures, or cause harm to future generations, may also warrant the use of civil disobedience. I advance the theory that certain circumstances (in regards to whether the harm of the state is severe enough to warrant civil disobedience, as well as the form the act of civil disobedience takes) provide the basis for the possible justification of civilly disobedient action. Whether in fact the act is morally justified is dependent upon the objective moral facts of the situation.

In chapter two I contextualize the question of the morality of civil disobedience within the framework of the question of political obligation in order to illuminate how these two questions are inextricably linked. In this chapter I provide explanations of voluntarist, teleological, deontological and associative theories of political obligation, as well as provide arguments as to why I do not believe they provide satisfactory answers to the question of political obligation. I support Rawls' theory of the natural duty to support just institutions as the most satisfactory answer to the question of political obligation because it: 1) bases political

obligation on the morality of the state and 2) supports the intuition that it is morally correct to support institutions that promote peace and justice.

In chapter three I compare my definition of civil disobedience with Rawls', providing arguments as to why my definition does not require the stipulations of publicity, nonviolence and communication that Rawls' does. I argue that my definition of civil disobedience is superior to Rawls' for three reasons: 1) the argument from misdirection, 2) the argument from scope and 3) the argument from effectiveness.

Finally, in chapter four, I contextualize my theory of civil disobedience within the framework of moral realism. Moral realism supports my theory of morally justified civil disobedience through the claim that objective moral facts exist and hold normative power over human action. Acts of civil disobedience are based on practical deliberations concerning the circumstances of the situation, such as whether the harm of the state is severe enough to warrant civil disobedience as well as whether the civil disobedient's act adheres to the constraints on action that I set out. These constraints are: 1) that all reasonable avenues of legal action have been taken to try and correct/address the wrongdoing before civil disobedience is engaged in, 2) the act of civil disobedience is a less severe wrongdoing than the wrongdoing of the state, and 3) the amount of harm which will result to all agents affected is minimized. Once these stipulations have been satisfied, the act of civil disobedience may be morally justifiable. Whether the act is, in fact, morally justified, however, is an objective matter dictated by relevant moral truths. In this chapter I provide three theoretical examples of objective moral facts that, if they are indeed facts, would morally justify civil disobedience. At the end of chapter four I describe the work of activists in the film *The Cove* as a paradigmatic example of civil disobedience constituted by their efforts to correct/address the moral wrongdoing of the mass dolphin drive hunts perpetrated by the state of Taiji.

The arguments of the thesis are founded on the following insight. Even if one lives in a morally just or nearly just state there is always the potential for a law to be put into place which constitutes a moral wrongdoing, or for an already existing law to facilitate unjust consequences. As I set out my thesis, the questions of civil disobedience and political obligation are bound in so

far as one must first answer the question of political obligation in order to answer the question of the morality of civil disobedience. The question of civil disobedience asks when, and under what circumstances, it is morally justified to override an agent's *pro tanto* duty of political obligation in order to correct or appropriately address a moral wrongdoing of the state, or inspire political change (depending on the definition of civil disobedience one subscribes to). The question of when it is morally justified to override one's political obligation in order to engage in civil disobedience, however, presupposes the notion that agents do have political obligation to the state and that this obligation is in fact morally justified. In my thesis I have defended Rawls' theory of the natural duty to support just institutions as the most satisfactory answer to the question of political obligation. Rawls' theory of political obligation follows as such: "from the standpoint of the theory of justice, the most important natural duty is that to support and to further just institutions." (Rawls 1971, 293) The duty to support just institutions has two parts: "first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves." (Rawls 1971, 293) I believe Rawls' theory of the natural duty to support just institutions is the most satisfactory theory morally justifying political obligation for two reasons. The first reason is that Rawls provides a theory morally justifying political obligation which does not bind citizens irrevocably to the state. Rawls' natural duty extends to states which are morally just or nearly just, which creates the requirement for a state to be morally worthy of agents' political obligation rather than obligation being arbitrarily imposed. The second reason I believe Rawls' theory is the most satisfactory answer to the question of political obligation is because it resonates with the intuition that it is right to promote a morally just state of affairs. I believe this requirement is important in a theory of political obligation because it appeals to intuitions we have regarding what moral or immoral circumstances they ought to promote in order to morally justify (in part) their obligation to the state.

Using Rawls' theory of the natural duty to support just institutions, the question of when it is morally justified to break this obligation in order to promote a political change or correction (through civil disobedience) becomes relevant. Although I agree with Rawls' conception of the natural duty to support just institutions, I disagree with his definition of civil disobedience.

Rawls' definition of civil disobedience is that it is a "public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government." (Rawls 1971, 320) My definition, differing from Rawls', is stated as follows: civil disobedience is a conscientiously motivated breaking of the law in the attempt to correct or appropriately address a moral wrongdoing of the state. The main differentiating factor between my definition and Rawls' is the purpose towards which it is directed. Rawls directs his definition of civil disobedience towards changing the laws/policies within the state which have facilitated the wrongdoing. Rawls' conception of civil disobedience is that it is directed towards the facilitation of justice in society, which is achieved through the maintenance of a system of government which promotes justice for all its citizens. Rawls emphasizes that justice is facilitated through the structures of the state, which create the conditions within his definition of civil disobedience stating that civil disobedients may not engage in any action which works to undermine the governance of the state, and promotes his definition of civil disobedience as a public matter involving all citizens. My definition of civil disobedience, however, is directed solely at the correction or addressing of wrongdoings instigated by the state. My definition of civil disobedience spans over both individual and group acts of civil disobedience. Although both definitions posit that civil disobedience is a conscientious matter on behalf of the agent Rawls' definition of civil disobedience is public in nature, while my definition holds that the act does not need to be public but rather allows for whatever actions are required in order to correct/appropriately address the wrongdoing (within the confines of the conditions I have stated). My definition of civil disobedience involves different constraints on action than Rawls' because of the difference in purposes towards which they are directed. My definition does not require that an act of civil disobedience is public, non-violent or enacted in the attempt to promote a change in the laws/policies facilitating the wrongdoing. It does not require that the act be within these three constraints because it is not directed at preserving the system of governance of the state as Rawls' account, which limits action to solely that which illuminates wrongdoing of the state. Violence may be used within my definition of civil disobedience, however, it must be used solely as a last resort when all other (reasonable) non-violent options have been attempted, and the amount of violence which may be morally justified is strictly regulated. I believe the conditions of the actual world create certain circumstances in which there is no other recourse but to correct/address a wrongdoing with violent action, however the harm produced by

agents of civil disobedience must be far less severe than the harm produced by the wrongdoing of the state. My theory of civil disobedience has three advantages over Rawls' theory. I express these in the form of three arguments: 1) the argument from misdirection, 2) the argument from scope and 3) the argument from effectiveness. The argument from misdirection contends that Rawls misdirects the moral intention of acts of civil disobedience towards political systems of justice as opposed to the harm suffered by victims of the state's wrongdoing. The argument from scope identifies the fact that because Rawls holds his definition of civil disobedience applies in morally just or nearly just states, which he identifies as only possible if they are democratic, his definition is too narrow in the instances in which it can be applied. Finally, in the argument from effectiveness I argue that my account of civil disobedience has an advantage over Rawls' account because civil disobedience undertaken on its basis would be more effective at bettering society overall.

Once the validity of the duty of political obligation has been supported and the definition of civil disobedience has been settled, it remains to be determined what constitutes a wrongdoing severe enough to warrant the use of civil disobedience. The wrongdoing of a state must be very serious to warrant the moral justification for agents to violate their duty of political obligation in order to correct/address. The harm of the state must be non-arbitrary, serious, and work to undermine basic interests and prevent a good quality of life for citizens with dignity. In addition, harms which cause unjustified suffering or death to sentient creatures or cause harm to future generations also qualify as of the level of severity which warrants the use of civil disobedience in order to correct/address. The type of harm which allows for the use of civil disobedience excludes those wrongs which the state engages in that: 1) do not violate the values which undermine basic interests and prevent a good quality of life with dignity for its citizens and 2) are readily rectifiable. My theory of civil disobedience is set in the context of moral realism which is a metaethical theory holding that moral facts exist and have normative power over human action. Agents are able to form morally justified opinions regarding these moral facts and these moral facts designate the varying levels of wrongful harm within actions. The type of harm which would warrant the use of civil disobedience is reached when a state engages in severe harm as designated according to the relevant moral facts. Once an agent conscientiously decides that an act of wrongdoing engaged in by the state is severe enough to warrant the use of civil

disobedience, the agent may engage in civilly disobedient action in order to correct/appropriately address the wrongdoing. The severity of the wrongdoing of the state creates the circumstances under which normally immoral action becomes morally justified, however, three constraints limit the type of action the civil disobedient may engage in. These constraints on action are: 1) that all reasonable avenues of legal action have been taken to try and correct/address the wrongdoing before civil disobedience is engaged in, 2) the act of civil disobedience is a less severe wrongdoing than the wrongdoing of the state, and 3) the amount of harm which will result to all agents affected is minimized. The conditions stipulating the severity of harm which warrants the use of civil disobedience in order to correct/address, as well as the constraints on the type of civilly disobedient action which may be used, create the circumstances under which an act of civil disobedience may be morally justifiable. Whether the act is in fact morally justified, however, is determined based on whether the agent of civil disobedience has engaged in their action for a legitimate purpose (to correct/address a severe wrongdoing of the state), as well as if they adhere to the constraints I have specified in the type of civilly disobedient action they engage in.

I believe my theory of civil disobedience is justified because it represents the most accurate and effective response to the problems of injustice, error and harmful situations the context of the real world forces upon agents. It allows for agents to act accordingly when wrongful harm is promulgated by the state, yet the constraints listed protect the agent of civil disobedience from engaging in immoral action in an effort to combat the evil of the state. My definition represents an approach to civil disobedience which is based on the reality of certain situations, in which an agent is forced to engage in ordinarily immoral action which becomes morally justified in order to correct or appropriately address a larger harm from the state. I believe my theory of civil disobedience is relevant because it acknowledges that the morality of situations and actions varies, and an agent must be open to these shifts in morality in order to accurately and justly protect their own and others' dignity under the rule of a state.

The question of civil disobedience is paramount to every individual who lives under the regime of a state. It represents the unending struggle of power between autonomous individuals with dignity and free will and the imposition of constraints on individual action imposed by

states. Civil disobedience is of supreme importance to citizens because it focuses on the powerful question of how free we are within the bounds of the governance of a state, and questions when our freedom is unjustly diminished. Civil disobedience allows agents to reclaim their dignity and freedom when it has been unjustly violated (when the state has wrongfully caused severe harm) and protects the right of agents living within society to combat harmful actions of the state. For these reasons the question of what constitutes a severe enough harm to warrant the use of civil disobedience, and the form an act of civil disobedience may take, translates into a question of the boundaries of freedom the state may not rightly violate, adapting the nature of what is morally correct or incorrect when the circumstances of justice and freedom have been altered. It recognizes that citizens of a state do not, and cannot, surrender their conscience to the state.

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